

EXHIBIT 2



Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Date: December 20, 2016

Case: de Reyes, et al. -v- Waples Mobile Home Park Limited
Partnership, et al.

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Conducted on December 20, 2016

<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE EASTERN DISTRICT OF VIRGINIA</p> <p>3 ALEXANDRIA DIVISION</p> <p>4 - - - - -x</p> <p>5 ROSY GIRON DE REYES, et al., :</p> <p>6 Plaintiffs, :</p> <p>7 v. :</p> <p>8 WAPLES MOBILE HOME PARK LIMITED :</p> <p>9 PARTNERSHIP, et al., :</p> <p>10 Defendants. :</p> <p>11 - - - - -x</p> <p>12 Civil No.: 1:16cv563-TSE-TCB</p> <p>13</p> <p>14</p> <p>15 Videoconference Deposition of GEORGE C. CARUSO</p> <p>16 McLean, Virginia</p> <p>17 Tuesday, December 20, 2016</p> <p>18 12:37 p.m.</p> <p>19</p> <p>20 Job No.: 131024</p> <p>21 Pages: 1 - 130</p> <p>22 Reported by: Lisa Kirk</p>	<p>3</p> <p>1 A P P E A R A N C E S</p> <p>2 ON BEHALF OF THE PLAINTIFFS:</p> <p>3 JOY ODOM, ESQUIRE</p> <p>4 Quinn Emanuel Urquhart & Sullivan, LLP</p> <p>5 777 6th Street, Northwest</p> <p>6 11th Floor</p> <p>7 Washington, D.C. 20001</p> <p>8 202.538.8159</p> <p>9</p> <p>10 SIMON SANDOVAL-MOSHENBERG, ESQUIRE</p> <p>11 Legal Aid Justice Center</p> <p>12 6066 Leesburg Pike</p> <p>13 Suite 520</p> <p>14 Falls Church, Virginia 22041</p> <p>15 703.778.3450</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p>2</p> <p>1 Deposition of GEORGE C. CARUSO, held at</p> <p>2 the offices of:</p> <p>3 REED SMITH LLP</p> <p>4 7900 Tysons One Place</p> <p>5 Suite 500</p> <p>6 McLean, Virginia 22102</p> <p>7 703.641.4200</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 Pursuant to Notice, before Lisa Kirk,</p> <p>19 Court Reporter and Notary Public in and for the</p> <p>20 Commonwealth of Virginia.</p> <p>21</p> <p>22</p>	<p>4</p> <p>1 A P P E A R A N C E S C O N T I N U E D</p> <p>2 ON BEHALF OF THE DEFENDANTS:</p> <p>3 JUSTIN D. deBETTENCOURT, ESQUIRE</p> <p>4 Reed Smith, LLP</p> <p>5 7900 Tysons One Place</p> <p>6 Suite 500</p> <p>7 McLean, Virginia 22102</p> <p>8 703.641.4209</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

Conducted on December 20, 2016

<p style="text-align: center;">5</p> <p>1 C O N T E N T S</p> <p>2 EXAMINATION OF GEORGE C. CARUSO PAGE</p> <p>3 By Ms. Odom 6, 121</p> <p>4 By Mr. deBettencourt 114</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9 E X H I B I T S</p> <p>10 (Attached to the transcript.)</p> <p>11 CARUSO DEPOSITION EXHIBIT PAGE</p> <p>12 Exhibit 1 Expert Report 6</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: center;">7</p> <p>1 Q All right, so Mr. Caruso, have you ever</p> <p>2 been deposed before?</p> <p>3 A Yes, ma'am.</p> <p>4 Q How many times?</p> <p>5 A Well, I was asked that question in a</p> <p>6 deposition last year and I think it's five or six.</p> <p>7 If you've been doing this as many years as I have,</p> <p>8 you don't remember everything anymore, but I've been</p> <p>9 deposed multiple times.</p> <p>10 Q All right. Beyond the deposition last</p> <p>11 year, have you had any depositions in the last five</p> <p>12 years?</p> <p>13 A Yes, one prior to that that would be right</p> <p>14 at the five-year time frame.</p> <p>15 Q Okay. What kind of case was that?</p> <p>16 A That was an employment law case.</p> <p>17 Q All righty.</p> <p>18 A I was the corporate representative of my</p> <p>19 then employer before I retired.</p> <p>20 Q All right, so since you've been deposed</p> <p>21 before, you're probably already familiar with the</p> <p>22 rules of the road, so to speak, but I just want to</p>
<p style="text-align: center;">6</p> <p>1 (Caruso Exhibit 1 was marked for</p> <p>2 identification and is attached to the transcript.)</p> <p>3 P R O C E E D I N G S</p> <p>4 MS. ODOM: All right, so Mr. Caruso, we're</p> <p>5 going to go ahead and go on the record and the court</p> <p>6 reporter is going to swear you in in just a minute.</p> <p>7 Your testimony today is as if you were giving it in a</p> <p>8 courtroom.</p> <p>9 And I just need to ask Mr. deBettencourt if</p> <p>10 he agrees that we can stipulate to Mr. Caruso being</p> <p>11 sworn remotely.</p> <p>12 MR. deBETTENCOURT: Yes.</p> <p>13 MS. ODOM: Okay. So the parties are agreed</p> <p>14 on that and the court reporter will go ahead and give</p> <p>15 you the oath now.</p> <p>16 Whereupon,</p> <p>17 GEORGE C. CARUSO,</p> <p>18 being first duly sworn or affirmed to testify to the</p> <p>19 truth, the whole truth, and nothing but the truth,</p> <p>20 was examined and testified as follows:</p> <p>21 EXAMINATION BY COUNSEL FOR THE PLAINTIFFS</p> <p>22 BY MS. ODOM:</p>	<p style="text-align: center;">8</p> <p>1 go back over them with you. You and I want to try</p> <p>2 to not talk over each other. With you being remote,</p> <p>3 that might be a little bit difficult with the lag</p> <p>4 time, but we'll do our best because the court</p> <p>5 reporter can only take down one of us at a time.</p> <p>6 I'd ask you to let me finish my question before you</p> <p>7 start to answer and I'll try to let you finish your</p> <p>8 answer and try not to interrupt you. You</p> <p>9 understand, as we discussed a minute ago, that the</p> <p>10 testimony you give today is as if you were giving it</p> <p>11 in court in front of a judge and jury.</p> <p>12 A I do.</p> <p>13 Q So you've got a responsibility to tell the</p> <p>14 truth and the whole truth there. Is there any</p> <p>15 reason that you're aware of why you can't give your</p> <p>16 best and most accurate testimony today?</p> <p>17 A None that I'm aware of.</p> <p>18 Q All right. So I saw in your resumé to your</p> <p>19 report, which we've marked as Exhibit A, and I</p> <p>20 regret you don't have a copy of it, but I understand</p> <p>21 you're familiar with it. And if you need to refer</p> <p>22 back to your report at sometime, just let us know</p>

Conducted on December 20, 2016

<p style="text-align: right;">9</p> <p>1 and we'll work that out.</p> <p>2 A Okay.</p> <p>3 Q We can, maybe, fax it to you or we can hold</p> <p>4 it up to the camera if you need to look at it for</p> <p>5 any reason. But I saw you've got about 40 years of</p> <p>6 experience in managing residential properties; is</p> <p>7 that right?</p> <p>8 A I started in 1972, so, yeah. That would</p> <p>9 be, what, 44 years?</p> <p>10 Q That's right, by my calculation. And you</p> <p>11 asset manage about 5,000 multifamily units in D.C.</p> <p>12 for --</p> <p>13 A Yes. Well (inaudible). I am, in theory,</p> <p>14 partially retired at this point. The reason I say</p> <p>15 in theory, that's because some weeks I work a full</p> <p>16 week, some weeks I don't work at all, but I was</p> <p>17 working full time until April of '14, when I turned</p> <p>18 65, and gave up my full-time position. And one of</p> <p>19 my big clients is Mid-City Financial Corporation.</p> <p>20 That's where I do asset management. I also own</p> <p>21 properties for my own portfolio.</p> <p>22 Q As part of your asset management for</p>	<p style="text-align: right;">11</p> <p>1 MR. deBETTENCOURT: Objection, form.</p> <p>2 A No.</p> <p>3 MS. ODOM:</p> <p>4 Q Go ahead.</p> <p>5 A I don't do much in the way of day-to-day</p> <p>6 operations anymore. When there's an issue or an</p> <p>7 issue needs to be looked at, I'm the one who goes</p> <p>8 and does it. If we're going to do major capital</p> <p>9 work, I'm the one who hires the engineers, hires the</p> <p>10 contractors, reviews the plans. I'm involved in the</p> <p>11 annual budgeting processes. I'm involved in the</p> <p>12 regulatory issues with the regulatory agencies. If</p> <p>13 we need permits pulled for something, I'm the one</p> <p>14 who goes and pulls the permits. So it's higher</p> <p>15 level stuff. I stay out of -- I mean, we have</p> <p>16 full-time management people. And when I retired, I</p> <p>17 retired to let the folks that I spent the last 15</p> <p>18 years training replace me and manage. So I do the</p> <p>19 higher-end special projects and talk to them from</p> <p>20 time to time, but I do not do day-to-day management</p> <p>21 any longer.</p> <p>22 Q Would you say that you're involved in the</p>
<p style="text-align: right;">10</p> <p>1 Mid-City what are some of the responsibilities you</p> <p>2 have in that job?</p> <p>3 A Well, I don't officially have a title. We</p> <p>4 just call me the owner's representative, but I sit</p> <p>5 in on budget meetings, operational stuff.</p> <p>6 Basically, I'm the in-house expert on operations and</p> <p>7 property management that they have, and given my</p> <p>8 experience and the fact that I operated their</p> <p>9 portfolio, among others, for 14 years when I was</p> <p>10 working at Edgewood full time. Mid-City Financial</p> <p>11 Corporation and Edgewood Management Corporation are</p> <p>12 owned by the same parent entity, so I will</p> <p>13 occasionally refer to the two interchangeably</p> <p>14 because Edgewood is the management operation and</p> <p>15 Mid-City is the ownership operation.</p> <p>16 Q When you say you're involved in the</p> <p>17 operations, what does that consist of?</p> <p>18 A Anything having to do with the operation of</p> <p>19 the apartment communities that we own.</p> <p>20 Q So is that the day-to-day logistics of</p> <p>21 keeping the doors open and the grounds kept or is it</p> <p>22 something else?</p>	<p style="text-align: right;">12</p> <p>1 creation or upkeep of any of the properties'</p> <p>2 policies?</p> <p>3 A In most cases I'm a reviewer of drafts when</p> <p>4 we change them. There was a time, prior to my</p> <p>5 retirement, that I was in charge of creating the</p> <p>6 policies. Now I'm the reviewer of the policies.</p> <p>7 Q What types of policies are those?</p> <p>8 A Across the whole board, the entire policy</p> <p>9 manuals that Edgewood uses, so that would be</p> <p>10 policies on admissions, policies on tenant file</p> <p>11 management, federal regulatory policies, bidding,</p> <p>12 management, contracting, you name it.</p> <p>13 Q So at some point before your retirement in</p> <p>14 2014 you had responsibility for overseeing and</p> <p>15 helping to draft the admissions and tenant policies</p> <p>16 for the Mid-City properties?</p> <p>17 MR. deBETTENCOURT: Objection, form.</p> <p>18 A Actually, my responsibilities were broader</p> <p>19 than that. Mid-City is only one of the components.</p> <p>20 Edgewood Management has a substantial book of</p> <p>21 third-party management and I was the executive vice</p> <p>22 president and chief knowledge officer. I was</p>

Conducted on December 20, 2016

<p style="text-align: right;">13</p> <p>1 responsible for drafting and enforcing all policies 2 on the entire portfolio, which in those days ran 3 between 165 and 175 properties, around 30,000 units, 4 give or take. Properties are continuously coming in 5 and leaving a portfolio, as you might imagine. 6 MS. ODOM: 7 Q Where did you first become employed with 8 Mid-City and Edgewood? 9 A August of 2002. 10 Q And has that been your primary form of 11 employment since 2002 up until your point of 12 retirement? 13 A That is my primary compensated form of 14 employment. Myself and my sisters are the 15 beneficiaries of and I am the manager of a series of 16 family trusts, where we manage our own family assets 17 that come from my parents and my grandparents. 18 Q Do those assets include residential 19 properties for rent or lease? 20 A They do. They include single-family 21 residential properties for rent and lease, and they 22 also include a major agricultural operation.</p>	<p style="text-align: right;">15</p> <p>1 20,000 units. And then I went to Alco Properties in 2 Memphis. I had a shade more than 8,000 units there. 3 We owned virtually everything we managed. Then I 4 had my mid-career sabbatical as executive director 5 of the National Affordable Housing Management 6 Association, was there for six years in Washington 7 doing lobbying and policy work, and then went to 8 work for Edgewood in 2002. So over those 40 years 9 I've managed everything from high-end luxuries down 10 to assisted properties and pretty much everything in 11 between. There was one point in the mid '80s where 12 I managed the largest single-use residential rental 13 building in the world, which is Lake Point Tower in 14 Chicago. I also managed the largest assisted 15 property in Huron, South Dakota at a whopping -- I 16 still remember the number -- 23 units. 17 Q When you did lobbying and policy work in 18 Washington, D.C., what was the topic or focus of 19 that work? 20 A I was the executive director of the 21 National Affordable Housing Management Association. 22 It's a real estate trade organization, still exists</p>
<p style="text-align: right;">14</p> <p>1 Q How many different residential complexes 2 would you say you've managed over your career? 3 A Without a lot of research it would be 4 difficult to say, but the number is very substantial 5 at this point. The reason I say that -- and I'll 6 just walk you quickly forward from the major 7 positions once I became an operational vice 8 president. I started in the business in Chicago. I 9 was at Harbor Realty and Management, which is an old 10 Chicago management firm. We managed a large 11 portfolio of properties on Lake Shore Drive. Then I 12 moved to the West Coast and went to work for 13 American Diversified, American Diversified Capital 14 Corporation. That's the largest corporation I've 15 ever worked for. They had -- during the period of 16 time I was there we had a shade more than 55,000 17 units in about 300 locations. After that I moved to 18 The Mitchell Company in Mobile, Alabama. We 19 operated principally in seven states in the 20 southeast, plus Louisiana and Texas. We were a 21 merchant builder, so the portfolio varied, but in 22 most cases it was somewhere in the range from 15 to</p>	<p style="text-align: right;">16</p> <p>1 today. We worked with HUD, the Department of 2 Agriculture, the Department of Treasury, Congress, 3 and various administrations on a broad range of 4 affordable housing issues, taxation issues, and all 5 the sorts of things that one does if one is running 6 a real estate trade association. 7 Q Did any of your lobbying or policy work 8 involve the issue of undocumented immigrants in 9 housing? 10 A It certainly did. 11 Q In what way? 12 A When the late Representative Henry Hyde and 13 the now retired, but still alive, Representative 14 Elton Gallegly introduced the first citizenship 15 requirement bills in the early 1990s, we worked with 16 folks and lobbied. We weren't terribly in favor of 17 them, but Representative Hyde was not going to be 18 deterred. 19 Q You and your organization -- 20 A And he had the votes. 21 Q I'm sorry, I didn't mean to interrupt you. 22 And your organization, you said, were not terribly</p>

Conducted on December 20, 2016

<p>17</p> <p>1 in favor of residency verification requirements?</p> <p>2 MR. deBETTENCOURT: Objection,</p> <p>3 mischaracterize.</p> <p>4 A We weren't necessarily in favor of the</p> <p>5 legislation as written, particularly the parts that</p> <p>6 would penalize owners if someone presented us with</p> <p>7 fraudulent documents. We were not against the</p> <p>8 residency requirements, per se. What we were</p> <p>9 against was owners being held responsible for things</p> <p>10 that they didn't have control over producing, and we</p> <p>11 were deeply concerned that we have better ability to</p> <p>12 verify documents.</p> <p>13 MS. ODOM:</p> <p>14 Q What is affordable housing?</p> <p>15 MR. deBETTENCOURT: Objection, form.</p> <p>16 A Depending on who you are and what your</p> <p>17 income level is, that's a very flexible definition.</p> <p>18 Can you help me out with a little bit more</p> <p>19 specificity?</p> <p>20 MS. ODOM:</p> <p>21 Q Sure. In the context of your lobbying and</p> <p>22 policy work in D.C. you said it related to</p>	<p>19</p> <p>1 operate the housing. And then, finally, in the deep</p> <p>2 assistance sector, there's annual appropriations to</p> <p>3 help support some of the costs of the</p> <p>4 deeply-assisted portfolio.</p> <p>5 Q Can you give me an estimate of, roughly,</p> <p>6 what percentage of the properties you've managed</p> <p>7 received federal funding or subsidy?</p> <p>8 A Not without sitting down with portfolio</p> <p>9 lists and research. Typically, in the period I was</p> <p>10 with Edgewood, about 60 percent of our portfolio was</p> <p>11 assisted and about 40 percent was not.</p> <p>12 Q Are the operations for assisted residential</p> <p>13 housing as opposed to non-assisted any different or</p> <p>14 do they operate the same way?</p> <p>15 A They operate in similar ways. If you're</p> <p>16 using federal or state money, federal or state money</p> <p>17 comes with strings and it comes with rules, so you</p> <p>18 have more reporting and more regulations that you</p> <p>19 have to deal with. The nature of the operation is</p> <p>20 basically similar in both cases.</p> <p>21 Q What are some of those strings that an</p> <p>22 assisted entity would have to deal with?</p>
<p>18</p> <p>1 affordable housing, and I wondered what, from your</p> <p>2 perspective, that covered.</p> <p>3 A It's principally all housing types that are</p> <p>4 aimed at housing people at or below, roughly, 60</p> <p>5 percent of area median income.</p> <p>6 Q Did any of your policy or lobbying work</p> <p>7 relate to federal subsidies or financing for low</p> <p>8 income --</p> <p>9 A Yes.</p> <p>10 Q -- tenants?</p> <p>11 A Yes.</p> <p>12 Q In what way?</p> <p>13 A Well, much of the affordable housing stock</p> <p>14 in this country is underpinned by FHA mortgages.</p> <p>15 You know who FHA is. You know it's a federal</p> <p>16 division. They're also underpinned by Freddie and</p> <p>17 Fannie financing, and to some extent Freddie Mac</p> <p>18 financing, so we worked with all those groups in</p> <p>19 terms of financing. And, of course, if you're in</p> <p>20 the affordable housing business, you have an</p> <p>21 inherent interest in the rulemaking and rules that</p> <p>22 HUD is proposing adopting that will impact how you</p>	<p>20</p> <p>1 A That's a very broad topic and we can spend</p> <p>2 days on it.</p> <p>3 Q Well, let's --</p> <p>4 A There is literally -- there's literally a</p> <p>5 three-foot long section of the Code of Federal</p> <p>6 Regulations called 24 CFR, chapter 24. It occupies</p> <p>7 a bookshelf about that long (indicating).</p> <p>8 THE WITNESS: For the recorder, I'm holding</p> <p>9 my hands about three feet apart.</p> <p>10 A And if you've been in this business as long</p> <p>11 as I have, you've been inside those regulations for</p> <p>12 years. And as I said, if they're writing you a</p> <p>13 check, they have all kinds of regulations that you</p> <p>14 have to comply with.</p> <p>15 MS. ODOM:</p> <p>16 Q Understood.</p> <p>17 A (Inaudible.)</p> <p>18 (At which time the court reporter requested</p> <p>19 clarification regarding the answer.)</p> <p>20 A If they're either writing you a check to</p> <p>21 cover the cost of operations or they're writing --</p> <p>22 or they have written you a mortgage, you get with</p>

Conducted on December 20, 2016

<p style="text-align: right;">21</p> <p>1 that regulations that you have to comply with.</p> <p>2 Q So we'll come back with some specificity</p> <p>3 later. I don't want to spend days on the</p> <p>4 regulations and strings that may be attached to</p> <p>5 federal funding or subsidies, but I did want to get</p> <p>6 a sense of whether any of the properties that you've</p> <p>7 managed over the years have included mobile home</p> <p>8 properties or whether it's only been apartments?</p> <p>9 MR. deBETTENCOURT: Objection.</p> <p>10 A I have been --</p> <p>11 THE WITNESS: Go ahead. I'm sorry.</p> <p>12 MR. deBETTENCOURT: Objection, form.</p> <p>13 MS. ODOM:</p> <p>14 Q You can go ahead and answer.</p> <p>15 A The short answer is I have done residential</p> <p>16 rental and residential condominiums most of my</p> <p>17 career. I have done a smattering -- and I use that</p> <p>18 term very carefully -- a smattering of commercial</p> <p>19 and retail spaces. I have not operated mobile home</p> <p>20 parks directly.</p> <p>21 Q For the properties that you have helped</p> <p>22 manage in some capacity over the years, did they all</p>	<p style="text-align: right;">23</p> <p>1 A Yup, because for Fair Housing reasons you</p> <p>2 want to operate consistently. Otherwise, the FH&EO</p> <p>3 Division of HUD will be on you. And if you manage</p> <p>4 what I call a split company, which means you're</p> <p>5 doing both conventional and assisted or affordable</p> <p>6 management, you need to adopt one set of policies</p> <p>7 and maintain them consistently.</p> <p>8 Q Is the ratio of assisted to non-assisted</p> <p>9 entities -- you said a moment ago it was about 60</p> <p>10 percent received federal funding and about 40</p> <p>11 percent didn't. Does that ratio hold true from the</p> <p>12 1990s to the present or is it different?</p> <p>13 A Without sitting down with the specific</p> <p>14 property lists, I wouldn't be able to tell you.</p> <p>15 Q Are you able to tell me whether entities</p> <p>16 that don't receive federal or state housing subsidy</p> <p>17 or funding also have a policy like the one in this</p> <p>18 case?</p> <p>19 MR. deBETTENCOURT: Objection, form.</p> <p>20 A Some of my colleagues in this business that</p> <p>21 are not doing deep assistance work have adopted very</p> <p>22 similar policies, yes.</p>
<p style="text-align: right;">22</p> <p>1 have a policy excluding undocumented immigrants from</p> <p>2 tenancy?</p> <p>3 MR. deBETTENCOURT: Objection, form.</p> <p>4 A I think there you have to be careful to</p> <p>5 specify when. The legislation that relates to that</p> <p>6 didn't come into play until the early 1990s. It</p> <p>7 wasn't an issue until the early 1990s. So in the</p> <p>8 early stages of my career it wasn't an issue because</p> <p>9 nobody seemed to care. When Congress passed a</p> <p>10 series of bills and legislation related to it in the</p> <p>11 early and middle '90s, and then visited those bills</p> <p>12 again in the late '90s, it moved from being not on</p> <p>13 your agenda to being on your agenda.</p> <p>14 MS. ODOM:</p> <p>15 Q So let's take the question from after</p> <p>16 Congress passed that legislation in the early '90s</p> <p>17 forward. For the properties that you've assisted in</p> <p>18 managing since the 1990s to the present, has each of</p> <p>19 those properties had a policy like the one at issue</p> <p>20 in this case?</p> <p>21 A Very similar to it, yes.</p> <p>22 Q Every single property?</p>	<p style="text-align: right;">24</p> <p>1 MS. ODOM:</p> <p>2 Q But not all?</p> <p>3 A I have to tell you I don't go around asking</p> <p>4 everybody that when I talk to them.</p> <p>5 Q But from your personal experience and</p> <p>6 knowledge, are you able to say whether the</p> <p>7 properties that you've had some involvement in all</p> <p>8 have a policy that exclude undocumented immigrants</p> <p>9 from tenancy whether or not they receive federal</p> <p>10 funding?</p> <p>11 MR. deBETTENCOURT: Objection, form, asked</p> <p>12 and answered.</p> <p>13 MS. ODOM:</p> <p>14 Q You can go ahead and answer.</p> <p>15 A I think I would stay with what I said</p> <p>16 earlier, and that is for the most part, yes, but</p> <p>17 without specifically looking at a property list and</p> <p>18 looking at whether owners had a special set of</p> <p>19 requirements, which some of them do, I can't tell</p> <p>20 you with 100 percent certainty that every property</p> <p>21 did. I can tell you that virtually everything we</p> <p>22 had in the portfolio did.</p>

Conducted on December 20, 2016

<p style="text-align: right;">25</p> <p>1 Q Do you know whether the Waples Mobile Home 2 Park received any form of federal or state housing 3 finance or subsidy? 4 A I'm unaware of their situation. 5 Q Would that be an important piece of 6 information for you to know in order to determine 7 whether the policy at issue in this case was 8 necessary? 9 A No, I don't think so. 10 Q Why not? 11 A When this legislation came into place, it 12 was clear that the intent of Congress was to ensure 13 that folks in residency should be in this country 14 appropriately. In addition, at the same time, and 15 this is exceedingly important, as you know, laws 16 were enacted that employers are to ascertain the 17 legality of all employees. And if you don't know 18 the status of somebody, you can't underwrite them, 19 because if you have somebody that doesn't have 20 status, that means, by definition, they're not 21 working legally. It's difficult to underwrite it. 22 Q So we'll get to the employment verification</p>	<p style="text-align: right;">27</p> <p>1 speculation. 2 MS. ODOM: 3 Q You can go ahead and answer if you 4 understand the question. If not, I can restate it. 5 A I think you better try and nail it down a 6 little bit, because the other thing you're doing 7 here is trying to divorce employment from leasing 8 activities, and you can't, because you're 9 underwriting against employment. 10 Q Well, I think I'd like to take it in two 11 pieces, so I understand your opinion that for 12 underwriting employment verification is important, 13 but I also understand your report to be offering a 14 second opinion, which is that in order for a 15 landlord to become eligible for federal or state 16 housing funding, they must verify that all tenants 17 are present in the United States legally. Do I have 18 your opinions correct? 19 MR. deBETTENCOURT: Objection, form. 20 A Yes, you have my views right on that. You 21 have to -- in order to qualify for subsidy money 22 from the federal or state agencies, you have to be</p>
<p style="text-align: right;">26</p> <p>1 part of your opinions in a second, but I want to 2 finish up with you on the federal funding aspect 3 first. You said when Congress passed the 4 legislation in the early 1990s, it was clear their 5 intent was that landlords verify the residency of 6 their tenants, the legal status of their tenants. 7 A Yes. Yeah. 8 MR. deBETTENCOURT: Objection, form. 9 MS. ODOM: 10 Q So my question for you is do you believe 11 that's true whether or not a particular landlord 12 receives federal or state subsidies for housing? 13 MR. DeBETTENCOURT: Objection, form. 14 A I'm not sure I understand precisely what 15 you're trying to get at. 16 MS. ODOM: 17 Q All right. I'll rephrase it. Is it your 18 opinion that the Congressional intent for what a 19 landlord has to verify about a prospective tenant, 20 is that the same whether or not that landlord is 21 receiving any type of government funding? 22 MR. deBETTENCOURT: Objection, form,</p>	<p style="text-align: right;">28</p> <p>1 in the country legally. 2 MS. ODOM: 3 Q Okay. So my question is if a landlord is 4 not applying for any subsidies and is not receiving 5 any sort of government funding, do they still have 6 to verify the presence of a tenant, that that tenant 7 is in the United States legally? If you take 8 funding out of it, what does the government got left 9 to say to you? 10 MR. deBETTENCOURT: Objection, form. 11 A The government's still got left to say to 12 you you still have to underwrite it, so you run 13 around that issue. And, two, if you're running what 14 I'll call a mixed company, which means you're 15 running a management house that does both types of 16 management, you can't have an inconsistent set of 17 standards. Fair Housing will get on you about that. 18 So most of us that run mixed companies, we have one 19 set of standards whether the property is subsidized 20 or not. And we adopt the most restrictive standard, 21 which is the federal standard. 22 MS. ODOM:</p>

Conducted on December 20, 2016

<p>29</p> <p>1 Q Would you agree with me that the</p> <p>2 underwriting of a lease is a more local focus for a</p> <p>3 landlord? That is to say, that's something that the</p> <p>4 landlord is concerned about, the risk of that lease,</p> <p>5 and nobody else but the landlord is concerned about</p> <p>6 that? Would you agree that's a fair statement?</p> <p>7 MR. deBETTENCOURT: Objection, form.</p> <p>8 A I'm trying to understand what you're trying</p> <p>9 to get at.</p> <p>10 MS. ODOM:</p> <p>11 Q Sure. Is the government concerned about</p> <p>12 the proper underwriting by a landlord of a</p> <p>13 prospective tenant's lease?</p> <p>14 MR. DeBETTENCOURT: Objection, speculation.</p> <p>15 A There will be instances where they would be</p> <p>16 concerned, where you've got money borrowed from an</p> <p>17 agency that's either insured by or cuts mortgages</p> <p>18 on, because they want to make sure that the terms of</p> <p>19 the loan are being met, most particularly that the</p> <p>20 loan is getting paid. Now, that's a roundabout way</p> <p>21 of getting to it, but you have to look at both</p> <p>22 elements. You've got the financing element if</p>	<p>31</p> <p>1 landlord's underwriting of a lease; is that fair?</p> <p>2 MR. DeBETTENCOURT: Objection, form.</p> <p>3 A There's one limited circumstance where they</p> <p>4 would be concerned with the underwriting of the</p> <p>5 lease. If it -- if someone filed a complaint that</p> <p>6 they were being treated disparately from other</p> <p>7 applicants, in other words, file a Fair Housing</p> <p>8 complaint, the government can come in and take a</p> <p>9 look at how you do your underwriting, how you do</p> <p>10 your admissions, and whether you're consistent in</p> <p>11 the application of the rules. I've had Fair Housing</p> <p>12 inquiries look at those. They literally come in,</p> <p>13 sit down, and go through the resident files.</p> <p>14 MS. ODOM:</p> <p>15 Q But in the absence of such a complaint, the</p> <p>16 landlord's underwriting is the landlord's business;</p> <p>17 is that right?</p> <p>18 MR. deBETTENCOURT: Objection, form.</p> <p>19 A Yeah.</p> <p>20 MS. ODOM:</p> <p>21 Q Is Waples Mobile Home Park in the</p> <p>22 low-income housing business?</p>
<p>30</p> <p>1 you've got somebody in the equation that's got, you</p> <p>2 know, government-related or government-insured</p> <p>3 financing, and then you have the operational</p> <p>4 element.</p> <p>5 MS. ODOM:</p> <p>6 Q Okay. If we have no loan, if there's no</p> <p>7 government loan or agency loan in the picture, is</p> <p>8 the government concerned --</p> <p>9 A Right.</p> <p>10 Q -- about the quality of a landlord's</p> <p>11 underwriting of a lease?</p> <p>12 MR. deBETTENCOURT: Same objection.</p> <p>13 A No, but the landlord would be.</p> <p>14 MS. ODOM:</p> <p>15 Q And only the landlord, correct?</p> <p>16 A So it would seem.</p> <p>17 Q So, really, there is -- there are two</p> <p>18 pieces of your opinion. And I understand that you</p> <p>19 want to take them in whole, but we have the federal</p> <p>20 funding and subsidy part of your opinion, and then</p> <p>21 we have the underwriting portion. And the</p> <p>22 government doesn't concern itself with the</p>	<p>32</p> <p>1 A Counsel hasn't shared with me precisely</p> <p>2 what the target market is on that, so I'm not in a</p> <p>3 position to really opine on that.</p> <p>4 Q Would you have wanted to receive that</p> <p>5 information for your opinions?</p> <p>6 MR. deBETTENCOURT: Objection. To the extent</p> <p>7 this question calls for communications from counsel,</p> <p>8 I'm going to instruct you to answer -- instruct you</p> <p>9 not to answer.</p> <p>10 MS. ODOM:</p> <p>11 Q And just to be clear, I'm not asking you</p> <p>12 for anything that counsel at Reed Smith has told</p> <p>13 you. I'm simply asking if you had all the</p> <p>14 information available to you that you would have</p> <p>15 wanted to have in an ideal world?</p> <p>16 MR. deBETTENCOURT: Objection, form.</p> <p>17 A As the folks at Reed Smith --</p> <p>18 THE WITNESS: Go ahead.</p> <p>19 A As the folks at Reed Smith have indicated,</p> <p>20 the only conversations I've had have been with the</p> <p>21 lawyers.</p> <p>22 MS. ODOM:</p>

Conducted on December 20, 2016

<p>33</p> <p>1 Q Did you ever request any other documents or</p> <p>2 information than were provided to you?</p> <p>3 MR. deBETTENCOURT: Objection, privileged</p> <p>4 information. To the extent this question calls for</p> <p>5 communications between you and counsel, I'm going to</p> <p>6 instruct you not to answer.</p> <p>7 MS. ODOM:</p> <p>8 Q Are you able to answer, Mr. Caruso?</p> <p>9 MR. deBETTENCOURT: I'm instructing you not</p> <p>10 to answer, Mr. Caruso.</p> <p>11 MS. ODOM:</p> <p>12 Q Well, let me ask you this. Did you rely on</p> <p>13 any materials besides your own experience in</p> <p>14 creating your report and forming your opinions?</p> <p>15 A No. Largely, my opinions were -- I was</p> <p>16 asked to render my views as to how one might go</p> <p>17 about operating this, in the abstract and that's</p> <p>18 what I've done.</p> <p>19 Q So to be clear, for example, you didn't</p> <p>20 review any of the documents that were produced in</p> <p>21 this case?</p> <p>22 MR. deBETTENCOURT: Objection, form.</p>	<p>35</p> <p>1 I think there's two pages that follow that label</p> <p>2 Exhibit A.</p> <p>3 Q That's right. So I just want to be clear,</p> <p>4 that's the only document in this case that you've</p> <p>5 reviewed; is that right?</p> <p>6 A Yup.</p> <p>7 Q And to make sure the record is clear on</p> <p>8 this, you are following Counsel's instruction not to</p> <p>9 answer whether you asked for any other documents to</p> <p>10 review?</p> <p>11 MR. deBETTENCOURT: Objection, asked and</p> <p>12 answered, privileged information.</p> <p>13 I'm instructing you not to answer.</p> <p>14 MS. ODOM: I'm simply asking the witness to</p> <p>15 state for the record whether he's following Counsel's</p> <p>16 instruction not to answer whether he asked for any</p> <p>17 other documents. That does not call for privileged</p> <p>18 information.</p> <p>19 MR. DeBETTENCOURT: You can answer that</p> <p>20 question.</p> <p>21 MS. ODOM:</p> <p>22 Q Would you like me to restate it,</p>
<p>34</p> <p>1 A The only document I've seen related to this</p> <p>2 case is my -- and you're going to have to help me</p> <p>3 with the name of the document -- the document my</p> <p>4 opinion was put in. What's that?</p> <p>5 MS. ODOM:</p> <p>6 Q Your expert report?</p> <p>7 A But it had a header on it. I don't</p> <p>8 remember what the header said.</p> <p>9 Q Yup, it's got a caption on it. I'm not</p> <p>10 sure -- where is the camera located? You probably</p> <p>11 can't see. I'll walk it over to you, so you can</p> <p>12 see.</p> <p>13 A No, I can't.</p> <p>14 Q All right, so --</p> <p>15 A My eyesight is not that good.</p> <p>16 Q Let me -- all right, are you able to see</p> <p>17 that, Mr. Caruso?</p> <p>18 MS. ODOM: For the record, I'm holding up</p> <p>19 what's been marked as Exhibit 1, which is</p> <p>20 Mr. Caruso's report.</p> <p>21 Q Does that look --</p> <p>22 A Yeah, there's -- that's the header page and</p>	<p>36</p> <p>1 Mr. Caruso?</p> <p>2 A Yeah, that would be helpful.</p> <p>3 Q Sure. No problem. So I was just asking</p> <p>4 you to confirm for the record that you're following</p> <p>5 Counsel's instruction not to answer as to whether</p> <p>6 you asked to see any other documents in this case.</p> <p>7 A I am following Counsel's instruction.</p> <p>8 Q Have you ever come into contact or become</p> <p>9 aware of undocumented immigrants at the Mid-City and</p> <p>10 Edgewood properties?</p> <p>11 MR. deBETTENCOURT: Objection, form.</p> <p>12 A Yes.</p> <p>13 MS. ODOM:</p> <p>14 Q How many times?</p> <p>15 MR. deBETTENCOURT: Same objection.</p> <p>16 A I can't give you a precise number, and only</p> <p>17 very occasionally. And I would only see it after an</p> <p>18 issue had revealed itself and we were in the process</p> <p>19 of removing those folks from residence.</p> <p>20 MS. ODOM:</p> <p>21 Q Would it be less than ten times?</p> <p>22 A I can't give you a precise number, but it's</p>

Conducted on December 20, 2016

<p>37</p> <p>1 probably less than -- less than a couple cases a 2 year. 3 Q Since 2002? 4 A Yeah. 5 Q Let's take the most recent case. What was 6 the circumstance in which that situation revealed 7 itself to you? 8 MR. deBETTENCOURT: Objection, form. 9 A The last case I recall, we, in the process 10 of reacting to a visit -- I use that term 11 advisably -- by the U.S. Attorneys for the District 12 of Columbia to do -- perform an arrest in an 13 apartment, it became revealed that some of the 14 documents that had been provided to us were 15 forgeries, and we ultimately ended up removing those 16 people. One of the people had already been arrested 17 and we ended up removing the household as a 18 consequence of it because they gave us forged 19 documents. 20 MS. ODOM: 21 Q Did the forged documents include a Social 22 Security card?</p>	<p>39</p> <p>1 emerged that his income was fraudulently 2 understated, and he was current on what we thought 3 he was making. 4 Q Is it possible for a citizen or 5 fully-documented immigrant to fraudulently 6 understate their income on a lease application? 7 A Yes. 8 Q Can you tell me some of the residential 9 landlords in northern Virginia and D.C. that you 10 consider to be well-managed? 11 A Well, clearly, I would consider my firm to 12 be well-managed. 13 Q Aside from your own? 14 A Huh? 15 Q Aside from your own, are there any that you 16 can think of? 17 A I have colleagues that post properties. I 18 consider their stuff to be very well-managed. I 19 have colleagues at Equity Residential. I consider 20 their stuff to be very well-managed. I have friends 21 at PRD. I consider their stuff to be very 22 well-managed. I have some friends at Aimco. I</p>
<p>38</p> <p>1 A I can't remember with precision what all in 2 the jacket was forged, but there were forgeries in 3 the file. 4 Q Did these tenants that we're speaking about 5 cause any disturbance at the property or was the 6 legal issue one that had arisen outside the confines 7 of the property? 8 MR. deBETTENCOURT: Objection, form. 9 A As I recall, and it's a little fuzzy, one 10 of the tenants was picked up on a drug offense, and 11 I don't remember whether the offense was on the 12 property or abutting it. 13 MS. ODOM: 14 Q Did Mid-City receive any complaints from 15 other tenants about this individual? 16 A I don't recall my staff mentioning anything 17 to me. Obviously, when somebody raids one of your 18 properties, you know about it, and a lot of 19 residents get very concerned. 20 Q Had this tenant been current on his rent 21 payments? 22 A To the best of my knowledge, yes, but it</p>	<p>40</p> <p>1 consider their stuff to be well-managed. I can go 2 on. I have a lot of friends, but I know a number of 3 firms that are well-managed in the District and in 4 northern Virginia, and in Maryland, and the other 5 places where they operate. 6 Q Do each of the properties that you just 7 mentioned have a policy similar to Waples that 8 excludes undocumented immigrants from tenancy? 9 MR. deBETTENCOURT: Objection, form. 10 A I haven't done specific polling with them, 11 but to the extent that those firms I just mentioned 12 have deep assistance jobs, they obviously do, 13 because they comply with the rules just like we do. 14 MS. ODOM: 15 Q How do you know that? 16 A Because if you want to be in the deep 17 assistance management business, HUD can lift your 18 authority to manage if you're not managing correctly 19 and not complying with the rules. 20 Q So the threat of regulatory intervention, 21 you believe, is an incentive to have a policy like 22 this?</p>

Conducted on December 20, 2016

<p style="text-align: right;">41</p> <p>1 A Well, that's one of the incentives. The</p> <p>2 threat of civil money penalties against you as an</p> <p>3 individual or an executive of the firm is another,</p> <p>4 and there's a whole string of other things that --</p> <p>5 I've been a senior executive for many years and I've</p> <p>6 had to sign a lot of management certifications and a</p> <p>7 lot of contracts and a lot of other documents, and</p> <p>8 the term we use inside the house is -- whenever I</p> <p>9 sign them, one of my subordinates comes in, I say to</p> <p>10 them, looking at them like I'm looking at you, okay,</p> <p>11 I'm betting my career here, is everything right.</p> <p>12 Q So what about landlords or residential</p> <p>13 property management companies that aren't in the</p> <p>14 deep assistance business, as you've called it? Do</p> <p>15 they have the same fear of regulatory intervention</p> <p>16 and civil monetary penalties?</p> <p>17 A Without -- you're going to need to narrow</p> <p>18 that question and you're going to need to either</p> <p>19 include or exclude mortgage financing from that.</p> <p>20 Q All right, let's exclude mortgage financing</p> <p>21 and --</p> <p>22 A Meaning you don't have any mortgage money</p>	<p style="text-align: right;">43</p> <p>1 A Not knowing precisely how they lease their</p> <p>2 lots, I can't answer that. I've never seen a lot</p> <p>3 lease. I don't know what their restrictions are or</p> <p>4 are not. I don't know how they structure their</p> <p>5 deals.</p> <p>6 MS. ODOM:</p> <p>7 Q Do you think that's information that would</p> <p>8 be relevant to the opinions in your report?</p> <p>9 A Not particularly, no. If you're going to</p> <p>10 comply with the Fair Housing rules and you're going</p> <p>11 to operate in what I regard as a fully-professional</p> <p>12 manner, the nature of the financing package on the</p> <p>13 item sitting on the ground lease is not necessarily</p> <p>14 all that relevant.</p> <p>15 (At which time the court reporter requested</p> <p>16 clarification regarding the answer.)</p> <p>17 Q Except to the extent that it may imbue some</p> <p>18 regulatory risk on the landlord; is that right?</p> <p>19 MR. deBETTENCOURT: Objection, form.</p> <p>20 A Again, not having seen the documents and</p> <p>21 not knowing how they do the ground lease, I don't</p> <p>22 know.</p>
<p style="text-align: right;">42</p> <p>1 from any federal or state agency?</p> <p>2 Q To the landlord. So to the extent --</p> <p>3 A Right.</p> <p>4 Q -- a tenant has received a mortgage, that's</p> <p>5 a private mortgage between the tenant and the</p> <p>6 mortgagor.</p> <p>7 A Right, but a tenant with a mortgage</p> <p>8 wouldn't be living in a rental property, I wouldn't</p> <p>9 think.</p> <p>10 Q Well, are you familiar with the way that</p> <p>11 the Waples' leases work?</p> <p>12 A You mean -- you're talking specifically --</p> <p>13 you're going to have to narrow that down for me. I</p> <p>14 think you're talking about where -- in a mobile home</p> <p>15 community you're essentially engaging in a ground</p> <p>16 lease. And the item -- just like you would in a</p> <p>17 commercial situation, and the item sitting on top of</p> <p>18 it can be separately mortgaged. Is that the</p> <p>19 differentiation you're making?</p> <p>20 Q Well, is that your understanding of the way</p> <p>21 the Waples community operates?</p> <p>22 MR. deBETTENCOURT: Objection, form.</p>	<p style="text-align: right;">44</p> <p>1 MS. ODOM:</p> <p>2 Q Well, to get us back to how we got down</p> <p>3 this path, what we were discussing is whether a</p> <p>4 community like Waples is the same as one like Aimco</p> <p>5 or Mid-City or Edgewood, that's what you've called a</p> <p>6 deep assistance management group.</p> <p>7 A Mm-hmm.</p> <p>8 MR. deBETTENCOURT: Objection,</p> <p>9 mischaracterize.</p> <p>10 MS. ODOM:</p> <p>11 Q And my question for you in the beginning</p> <p>12 was whether Waples is differently situated from</p> <p>13 those entities? Is it your opinion that Waples is</p> <p>14 situated the same as an entity like Mid-City?</p> <p>15 MR. deBETTENCOURT: Objection, form.</p> <p>16 A If you're asking me -- if you're asking me</p> <p>17 whether I would operate them differently than I</p> <p>18 operate other stuff, I maintain a consistent</p> <p>19 approach and recommend to my folks that they</p> <p>20 maintain a consistent approach, and that is we do</p> <p>21 the same thing the same way everywhere.</p> <p>22 MS. ODOM:</p>

Conducted on December 20, 2016

<p style="text-align: right;">45</p> <p>1 Q And that's because of the Fair Housing</p> <p>2 rules?</p> <p>3 A (No verbal response.)</p> <p>4 Q But you also mentioned that you are -- I</p> <p>5 say you, meaning Mid-City and Edgewood, are what you</p> <p>6 phrased as a deep assistance manager?</p> <p>7 A Mm-hmm.</p> <p>8 Q Can you explain for me what that means?</p> <p>9 MR. deBETTENCOURT: Objection, form.</p> <p>10 MS. ODOM:</p> <p>11 Q You can go ahead and answer.</p> <p>12 A A deep assistance situation is where some</p> <p>13 subdivision of either a state -- the state or</p> <p>14 federal government is writing a check on a monthly</p> <p>15 basis to cover part of the costs of the operation of</p> <p>16 the community. So deep assistance is a situation</p> <p>17 where the tenant payment is not 100 percent of the</p> <p>18 cost of operating a community.</p> <p>19 Q And because an entity like Aimco or</p> <p>20 Mid-City or Edgewood is receiving that check to</p> <p>21 cover their costs --</p> <p>22 A Mm-hmm.</p>	<p style="text-align: right;">47</p> <p>1 government funding in the way that we've been</p> <p>2 talking about.</p> <p>3 A Mm-hmm.</p> <p>4 Q Using that assumption, does Waples have</p> <p>5 less of a regulatory risk or concern than an entity</p> <p>6 like Mid-City?</p> <p>7 MR. deBETTENCOURT: Objection, form.</p> <p>8 MS. ODOM:</p> <p>9 Q You can answer.</p> <p>10 A One more time, not knowing how the upper</p> <p>11 tiers look, and what other assets, or inside Waples</p> <p>12 ownership entity going up, these deals tend to be</p> <p>13 very complexly structured, as I've said before, and</p> <p>14 I'll keep saying it, I always felt it necessary to</p> <p>15 follow Congressional intent, maintaining a</p> <p>16 consistent policy whether or not there's federal</p> <p>17 funding present. Doing it one way and doing it that</p> <p>18 way consistently inside the context of the rules has</p> <p>19 always been how I've operated.</p> <p>20 Q So you said something a second ago I want</p> <p>21 to go back to. You said these things are structured</p> <p>22 in a complex way. My question is if an entity has a</p>
<p style="text-align: right;">46</p> <p>1 Q -- of operation, that generates a</p> <p>2 regulatory risk from HUD; is that correct?</p> <p>3 MR. deBETTENCOURT: Objection, form.</p> <p>4 A In point of fact, you sign a document</p> <p>5 called a Regulatory Agreement in order to get the</p> <p>6 payments, so, yes, you have a contractual</p> <p>7 arrangement with the federal government or with the</p> <p>8 state agency.</p> <p>9 MS. ODOM:</p> <p>10 Q And that contractual agreement is part of</p> <p>11 the motivation to ensure that the policies at that</p> <p>12 residential complex comply in all ways with federal</p> <p>13 requirements?</p> <p>14 MR. deBETTENCOURT: Objection, form.</p> <p>15 A That is correct.</p> <p>16 MS. ODOM:</p> <p>17 Q So my question for you is whether Waples</p> <p>18 receives deep assistance, whether it receives any</p> <p>19 check from the government?</p> <p>20 A I can't answer that. I don't know.</p> <p>21 Q So I'd like you to assume that the answer</p> <p>22 is no, that Waples doesn't receive any sort of</p>	<p style="text-align: right;">48</p> <p>1 managing entity, and then it may have several</p> <p>2 different properties beneath that umbrella --</p> <p>3 A Mm-hmm.</p> <p>4 Q -- is something that happens at one</p> <p>5 property, in terms of deep assistance, relevant to</p> <p>6 what happens at a different property that doesn't</p> <p>7 receive deep assistance?</p> <p>8 MR. deBETTENCOURT: Objection, form.</p> <p>9 A There's a term of art that HUD uses called</p> <p>10 misallocation of assets and equity skimming. And if</p> <p>11 you're doing something one place that you shouldn't</p> <p>12 be doing the other, and it impacts where money is</p> <p>13 going, yes, it can involve it.</p> <p>14 MS. ODOM:</p> <p>15 Q Okay. But assuming there's no</p> <p>16 misallocation of funds in the way that you</p> <p>17 described, that one complex of units receives</p> <p>18 federal funding and one complex of units does not,</p> <p>19 even though they're managed under the same umbrella,</p> <p>20 is the fact that one of those entities receives</p> <p>21 federal funding relevant at all to the policies of</p> <p>22 the non-funded entity?</p>

Conducted on December 20, 2016

<p style="text-align: right;">49</p> <p>1 MR. deBETTENCOURT: Same objection.</p> <p>2 A To the extent it can get you in a suit with</p> <p>3 FH&EO if there was a Fair Housing complaint, yes,</p> <p>4 because, again, they come in and the first thing</p> <p>5 they look for is is your pattern and practice</p> <p>6 consistent, do you do the same thing in the same way</p> <p>7 everywhere, and is everyone required to meet the</p> <p>8 same rules.</p> <p>9 MS. ODOM:</p> <p>10 Q Are you aware of what requirements a</p> <p>11 prospective tenant must meet at the Waples Mobile</p> <p>12 Home Park in order to be accepted as a tenant?</p> <p>13 A I have not seen their tenant selection plan</p> <p>14 and their policies on an individual basis.</p> <p>15 Q Are you able to describe the policy that's</p> <p>16 being challenged in this case?</p> <p>17 A I think you could probably describe it much</p> <p>18 better than I could.</p> <p>19 Q Well, I'd like for you to take a crack at</p> <p>20 it for me. Are you able to describe the policy</p> <p>21 that's been challenged in this litigation?</p> <p>22 A As I understand it, the key question here</p>	<p style="text-align: right;">51</p> <p>1 they are required to provide with their application</p> <p>2 at Waples?</p> <p>3 A I've not seen the list. I don't know.</p> <p>4 Q Do you know the defendants in that --</p> <p>5 A Can you guys do me a favor a second?</p> <p>6 Q Sure.</p> <p>7 A Could you kill the microphone that's down</p> <p>8 by that keyboard? It's making me crazy.</p> <p>9 Q It is off, but --</p> <p>10 A Thank you.</p> <p>11 Q You know what, I'm so sorry, Mr. Caruso, I</p> <p>12 don't think we're able to mute this one, but we're</p> <p>13 going to move it so that you don't have to listen to</p> <p>14 it.</p> <p>15 A That's good.</p> <p>16 Q This may make me extra loud, a downside.</p> <p>17 And I meant to say this at --</p> <p>18 A Yeah, because all I'm hearing is this</p> <p>19 clickety, clickety, clickety, click, and it just --</p> <p>20 I know you gotta make notes. I get that part. I</p> <p>21 just...</p> <p>22 Q Anything we can do. And I meant to say</p>
<p style="text-align: right;">50</p> <p>1 is the owners and operators of Waples are being</p> <p>2 challenged over their requirement that everyone that</p> <p>3 is an adult leaseholder has to be in this country</p> <p>4 legally. Now, whether that means they are a citizen</p> <p>5 or resident alien or some other form of legal</p> <p>6 residence in the country, they have to be here</p> <p>7 legally.</p> <p>8 Q Do you know what documents the Waples'</p> <p>9 policy requires a prospective tenant to provide?</p> <p>10 A I have not seen a complete list of the</p> <p>11 documents that they have to provide. And depending</p> <p>12 on one's situation, that document list is going to</p> <p>13 be widely variable.</p> <p>14 Q You said you hadn't seen a complete list.</p> <p>15 Have you seen a partial list?</p> <p>16 A My understanding, and it's only oral, is</p> <p>17 that they have to be here legally. I don't know how</p> <p>18 exactly that lays out in the policy and tenant</p> <p>19 selection plan. I've not seen the tenant selection</p> <p>20 plan.</p> <p>21 Q For a prospective tenant that does not have</p> <p>22 a Social Security number, do you know what documents</p>	<p style="text-align: right;">52</p> <p>1 this at the outset, but if you get where you'd like</p> <p>2 to take a break, just let me know and we'll take</p> <p>3 one.</p> <p>4 A I'll raise my hand just like you do in</p> <p>5 first grade (indicating).</p> <p>6 Q A-plus, there you go.</p> <p>7 A Okay.</p> <p>8 Q All right. Do you know what the</p> <p>9 defendants' reasons are for having this policy? And</p> <p>10 when I say defendants, I mean the A.J. Dwoskin</p> <p>11 company and Waples Mobile Home Park.</p> <p>12 A I think it's a general proposition, they</p> <p>13 want to make sure when they're underwriting folks,</p> <p>14 that they have a reasonable assurance that the rent</p> <p>15 is going to get paid. And in order to have a</p> <p>16 reasonable assurance the rent is going to get paid,</p> <p>17 that generally means somebody is going to have to</p> <p>18 have a job. And we've been around that bush</p> <p>19 already. And, again, you know, as we've said</p> <p>20 before --</p> <p>21 MR. deBETTENCOURT: Mr. Caruso --</p> <p>22 A -- package of things --</p>

Conducted on December 20, 2016

<p>53</p> <p>1 MR. DeBETTENCOURT: -- sorry to interrupt.</p> <p>2 THE WITNESS: Go ahead.</p> <p>3 MR. deBETTENCOURT: To the extent this</p> <p>4 question calls for communications with counsel, I'm</p> <p>5 going to instruct you not to answer. If you're able</p> <p>6 to answer without relying on communications with</p> <p>7 counsel, you can answer the question.</p> <p>8 A Well, since all of my information has come</p> <p>9 through counsel, then I guess we're done.</p> <p>10 MS. ODOM:</p> <p>11 Q Don't get excited just yet. Can you tell</p> <p>12 me --</p> <p>13 A No, with that question. Not that we're</p> <p>14 done completely, just we're done with that question.</p> <p>15 Q Do you know what an ITIN is?</p> <p>16 A I've seen it.</p> <p>17 Q Seen an ITIN?</p> <p>18 A A blank of an ITIN. And I've probably seen</p> <p>19 filled-out ITINs at some point or another.</p> <p>20 Q Do you know what an ITIN does for a person,</p> <p>21 what effect it has?</p> <p>22 MR. deBETTENCOURT: Objection, form.</p>	<p>55</p> <p>1 MR. deBETTENCOURT: Objection, form.</p> <p>2 A Well, since we're not in the business of</p> <p>3 housing anybody that's not here legally, while ITINs</p> <p>4 may exist for some of our residents, the ones we're</p> <p>5 more interested in is verifying their employment,</p> <p>6 making sure that they're in the system, and we know</p> <p>7 that they're in residence legally. I mean,</p> <p>8 everything we do in terms of processing these</p> <p>9 documents drives to are they here legally, are they</p> <p>10 working legally.</p> <p>11 MS. ODOM:</p> <p>12 Q Does Mid-City and Edgewood accept ITINs as</p> <p>13 part of an application for a tenant?</p> <p>14 A Somebody could hand one of them to us, but</p> <p>15 the thing we'd be interested in is we want to see,</p> <p>16 and I'm going to use a generic term here, we want to</p> <p>17 see the Green Card. As you know, Green Cards are</p> <p>18 not even green anymore, and you also know that Green</p> <p>19 Cards covers a broad range of documents. We want to</p> <p>20 see the documents related to are they here legally</p> <p>21 and we want to know where their work is, we want to</p> <p>22 know that they're employed in an appropriate way.</p>
<p>54</p> <p>1 A Effectively, as I get it, what that enables</p> <p>2 the federal government to do is get their payroll</p> <p>3 taxes.</p> <p>4 MS. ODOM:</p> <p>5 Q How does somebody get an ITIN?</p> <p>6 A You register and get one and they give you</p> <p>7 an ID number to submit your taxes.</p> <p>8 Q How about a U.S. visa, what does that</p> <p>9 enable a person to do?</p> <p>10 MR. deBETTENCOURT: Objection, form.</p> <p>11 A Depends on the visa. In the case of most</p> <p>12 visas, you're going to have to actually look at the</p> <p>13 visa document. In many instances it will either</p> <p>14 allow work or not allow work. Lots of visas are</p> <p>15 time limited. There's different types of visas. I</p> <p>16 mean, you're -- you know, you're dealing with an</p> <p>17 area that, particularly when you get to immigration</p> <p>18 laws, is exceedingly complex. You could see all</p> <p>19 kinds of forms.</p> <p>20 MS. ODOM:</p> <p>21 Q Do you have any experience with U.S. visas</p> <p>22 or ITINs or I-94 forms?</p>	<p>56</p> <p>1 Q If a prospective tenant at Mid-City or</p> <p>2 Edgewood presents a Green Card as part of the</p> <p>3 application process --</p> <p>4 A Mm-hmm.</p> <p>5 Q -- is there any sort of enhanced diligence</p> <p>6 to verify their employment?</p> <p>7 A We have a whole package of things, and</p> <p>8 employment will have to be verified, incomes have to</p> <p>9 be verified, and we have to have third-party</p> <p>10 documentation, yes.</p> <p>11 Q What sort of third-party documentation?</p> <p>12 A Typically, we get third-party documentation</p> <p>13 from the employer or from an agency that works for</p> <p>14 the employer. Some large employers now outsource</p> <p>15 that to companies that provide documentation, as you</p> <p>16 may be aware.</p> <p>17 Q Is that documentation like pay stubs or</p> <p>18 verifications of employment or what does that</p> <p>19 consist of?</p> <p>20 A Pay stubs is going to be a last resort only</p> <p>21 if we don't have anything else and we're going to do</p> <p>22 fact checking based on it. Typically, what we are</p>

Conducted on December 20, 2016

<p style="text-align: right;">57</p> <p>1 looking for is when we put it into the system, we're</p> <p>2 going to want to see a written confirmation of</p> <p>3 employment from the employer as to wages and as to</p> <p>4 tenure in that position. The form of that will</p> <p>5 vary, but that's what we're looking for.</p> <p>6 Q And in your experience, is that customary</p> <p>7 across residential management companies?</p> <p>8 A Yes.</p> <p>9 Q Will Mid-City and Edgewood accept a foreign</p> <p>10 passport as proof of identity in the application</p> <p>11 process?</p> <p>12 A If it has the appropriate visas, with the</p> <p>13 appropriate work permits, and we can verify it. Or,</p> <p>14 and I use this term because it's not related to what</p> <p>15 we do here and I'll just mention it in passing -- I</p> <p>16 have over the years leased apartments on a regular</p> <p>17 basis to foreign nationals who are here at the</p> <p>18 forbearance of the Department of State, in other</p> <p>19 words, they're diplomats, and we handle diplomats in</p> <p>20 a different way.</p> <p>21 Q Because they come with the imprimatur of</p> <p>22 the Department of State?</p>	<p style="text-align: right;">59</p> <p>1 Q And I want to understand why you think</p> <p>2 that's the case.</p> <p>3 MR. deBETTENCOURT: Objection, form.</p> <p>4 A Fairly simple answer, and that is, as you</p> <p>5 know, under the provisions of the change in the laws</p> <p>6 a few years back, you fill out an I-9. It has to be</p> <p>7 verified and you have to be here either through I-9</p> <p>8 or E-Verify. And in order to work legally in this</p> <p>9 country you gotta be here legally.</p> <p>10 MS. ODOM:</p> <p>11 Q What is E-Verify?</p> <p>12 A E-Verify is the electronic system that CIS</p> <p>13 stood up to be a faster turnaround to the I-9</p> <p>14 system. You can do it using E-Verify when you hire</p> <p>15 somebody now. It's an electronic system. You set</p> <p>16 up an account. We've been using E-Verify for, I</p> <p>17 don't know, four or five years. It's just a lot</p> <p>18 faster than the old I-9 paper systems.</p> <p>19 Q Is every employer required to participate</p> <p>20 in E-Verify?</p> <p>21 MR. deBETTENCOURT: Objection, speculation.</p> <p>22 MS. ODOM:</p>
<p style="text-align: right;">58</p> <p>1 A Well, that's number one, and you also --</p> <p>2 because they enjoy diplomatic immunity, there's a</p> <p>3 lot of other things you have to do to assure oneself</p> <p>4 that you're going to get paid. You can't walk into</p> <p>5 a landlord-tenant court and throw out a diplomat for</p> <p>6 not paying the rent. It doesn't happen.</p> <p>7 Q I can imagine the logistical hurdles</p> <p>8 involved. Does the U.S. government accept foreign</p> <p>9 passports as proof of identity for foreign</p> <p>10 nationals?</p> <p>11 MR. deBETTENCOURT: Objection, speculation.</p> <p>12 A I really don't have the means to answer</p> <p>13 that one way or the other.</p> <p>14 MS. ODOM: All right, let's take a quick</p> <p>15 break.</p> <p>16 (Off the record.)</p> <p>17 BY MS. ODOM:</p> <p>18 Q So I want to move on to talking about the</p> <p>19 underwriting of leases. We mentioned it earlier,</p> <p>20 and in your report you write that legal status is an</p> <p>21 important factor in underwriting a particular lease.</p> <p>22 A Mm-hmm.</p>	<p style="text-align: right;">60</p> <p>1 Q You can go ahead and answer.</p> <p>2 A You're required to do one or the other,</p> <p>3 meaning you have to do it through the I-9 system or</p> <p>4 you have to do it through E-Verify. E-Verify is not</p> <p>5 absolutely mandated, but almost everybody I know is</p> <p>6 moving towards it because it just makes life easier.</p> <p>7 Q And this applies to every employer, whether</p> <p>8 it's private or government or whether the employee</p> <p>9 is being hired as a, you know, private contractor,</p> <p>10 for example?</p> <p>11 MR. deBETTENCOURT: Objection, form.</p> <p>12 A Well, you gotta be careful there. If</p> <p>13 you're hiring a contractor, you're, by definition,</p> <p>14 or you'll get in trouble with Labor, not hiring an</p> <p>15 employee. You know there is a differentiation</p> <p>16 between the two? You've gotta be very careful about</p> <p>17 that.</p> <p>18 MS. ODOM:</p> <p>19 Q I am aware of the difference. And my</p> <p>20 question for you is if someone is being brought on</p> <p>21 as a contractor, does their employer have to go</p> <p>22 through the I-9 or E-Verify process?</p>

Conducted on December 20, 2016

<p>61</p> <p>1 MR. deBETTENCOURT: Same objection.</p> <p>2 A Last time I looked, if you're hiring</p> <p>3 somebody and you're paying them, you've gotta verify</p> <p>4 that they're legal to work.</p> <p>5 MS. ODOM:</p> <p>6 Q Does an individual need to have a Social</p> <p>7 Security number in order to fill out an I-9?</p> <p>8 A There's a big box on the front side of the</p> <p>9 I-9 and that's what you gotta have in order to make</p> <p>10 it work in the system.</p> <p>11 Q A big box containing what?</p> <p>12 A A Social Security number (indicating).</p> <p>13 Q If someone doesn't -- I didn't mean to</p> <p>14 interrupt you. I'm so sorry. Go ahead.</p> <p>15 A For E-Verify you absolutely have to have</p> <p>16 one. For the I-9 system, you've gotta get one or</p> <p>17 you're going to have to determine what their Social</p> <p>18 Security number is, so you can get the rest of the</p> <p>19 verifications. There are means of alternate -- and</p> <p>20 I'm not going to go into it here because I don't</p> <p>21 study it day-to-day -- there are alternate means to</p> <p>22 verify, but it all drills against are they here</p>	<p>63</p> <p>1 verification systems they're going to use. It's not</p> <p>2 exclusively to approve it.</p> <p>3 Q I'm not sure I understood that answer. So</p> <p>4 if a landlord, such as Mid-City --</p> <p>5 A Mm-hmm.</p> <p>6 Q -- gets a Social Security number on an</p> <p>7 application, is that taken as an indication that the</p> <p>8 applicant is able to work legally in the United</p> <p>9 States?</p> <p>10 A Well, that's where the process starts.</p> <p>11 That's where we do the rest of the background checks</p> <p>12 and the other stuff that goes with it.</p> <p>13 Q Is it the case that individuals without a</p> <p>14 Social Security number are still able to work</p> <p>15 legally in the United States?</p> <p>16 MR. deBETTENCOURT: Objection, speculation.</p> <p>17 A I haven't been that deep into those regs in</p> <p>18 a while. I just simply -- I'm not going to try to</p> <p>19 give you a guess on that, because that's what it</p> <p>20 would be. I'd have to go look it up.</p> <p>21 MS. ODOM:</p> <p>22 Q But in your experience, you can't recall a</p>
<p>62</p> <p>1 legally.</p> <p>2 Q So if someone doesn't have a Social</p> <p>3 Security number, they may still be able to complete</p> <p>4 an I-9?</p> <p>5 MR. deBETTENCOURT: Objection, form.</p> <p>6 A I suppose. I'm not sure. Since I use only</p> <p>7 exclusively E-Verify, and you gotta have it to have</p> <p>8 that system work, I don't know how the manual system</p> <p>9 works. I'm not current on it. I haven't used it in</p> <p>10 several years.</p> <p>11 MS. ODOM:</p> <p>12 Q Does the fact that an individual has a</p> <p>13 Social Security number prove that they have legal</p> <p>14 status to work in the United States?</p> <p>15 A Let me answer that by saying yes, we have</p> <p>16 run across fraudulent Social Security numbers.</p> <p>17 Q So I don't think that quite answered my</p> <p>18 question. My question is whether if a person</p> <p>19 possesses a Social Security number, does that</p> <p>20 demonstrate to a landlord that that individual has a</p> <p>21 legal status to work?</p> <p>22 A It's an indicator in the rest of the</p>	<p>64</p> <p>1 situation where an individual was legally empowered</p> <p>2 to work in the United States, but did not have a</p> <p>3 Social Security number?</p> <p>4 MR. deBETTENCOURT: Objection, form.</p> <p>5 A Yes, I have. Those have been the diplomats</p> <p>6 I mentioned earlier.</p> <p>7 MS. ODOM:</p> <p>8 Q Aside from the diplomats?</p> <p>9 A I've also had military attachés and</p> <p>10 military officers training at the naval base in</p> <p>11 Pensacola that, again, did not have, but we had the</p> <p>12 documentation from the country from which they were,</p> <p>13 where they were citizens, that they were legal to</p> <p>14 reside in our apartments while they were attending</p> <p>15 flight school in Pensacola. So, yeah, there are</p> <p>16 some situations you'll see where you've got foreign</p> <p>17 nationals training at U.S. military facilities or</p> <p>18 diplomats or other special situations. They're very</p> <p>19 rare.</p> <p>20 Q Have you ever encountered anyone, outside</p> <p>21 those contexts of diplomacy or military training,</p> <p>22 where an individual did not have a Social Security</p>

Conducted on December 20, 2016

<p>65</p> <p>1 number, but they were still able to work and be 2 employed in the United States? 3 MR. deBETTENCOURT: Objection, form. 4 A Not that I can recall. 5 MS. ODOM: 6 Q Have you ever looked it up or seen any 7 studies or articles about that? 8 MR. deBETTENCOURT: Same objection. 9 A Well, as a manner in policy 10 wonk (phonetic), I'm sure I have, but at this moment 11 I can't remember which visas. I spent a lot of time 12 working with those issues when those proposals were 13 first brought up in the early '90s. There was a lot 14 of ground that had to be plowed before those bills 15 became law. 16 MS. ODOM: 17 Q What is your basis for the statement in 18 your report that, and I quote, any applicant who 19 does not have legal status to work will be unable to 20 obtain employment that can be verified as to 21 duration and amount to permit underwriting? 22 A Well, it's actually pretty simple. If</p>	<p>67</p> <p>1 A In the assisted arena if you have someone 2 who is materially misstating their income on the 3 downside, meaning understated their income, there 4 are rules and procedures as to how you give them to 5 the HUD Inspector General or the Department of 6 Justice, because they want a referral on them. And 7 most years towards the end of my career we were 8 doing 15 or 20 referrals a year. There's a whole 9 process when you discover someone has misstated 10 things, particularly in assisted, where you have a 11 meeting, there's a whole due process system laid 12 out, and you go through what's essentially an 13 administrative review, and then act based on that. 14 And there are requirements that folks that have 15 materially -- and the threshold is fairly high. 16 It's about \$10,000 a year of misstatement -- but 17 you're required to make a referral. 18 Q How many of those referrals on an annual 19 basis would be for individuals who were foreign 20 nationals or immigrants? 21 A Comparatively, few. Matter of fact, off 22 the top of my head, I can't remember any in the last</p>
<p>66</p> <p>1 you're working for somebody that's breaking the law 2 by employing them, how do you know that anything 3 else they're going to tell you is the truth. 4 Q I'm not sure I understand that answer. Are 5 you suggesting that if an employer employs an 6 undocumented immigrant, they may also misrepresent 7 that individual's wages or duration of employment? 8 MR. deBETTENCOURT: Objection, form. 9 A Yeah. 10 MS. ODOM: 11 Q Have you ever had that happen, in your 12 experience? 13 A What, where employers have lied to me? 14 Yes. 15 Q How many times has that happened? 16 A In these days, electronic verification and 17 backup checking on stuff, it's more rare than it 18 once was, but it still happens with some regularity, 19 where we'll get something that, as we're doing the 20 underwriting, we find doesn't add up. 21 Q How many instances would you say over the 22 last ten years that has happened?</p>	<p>68</p> <p>1 couple of years. 2 Q So employer misstatements are typically 3 about citizens of the United States as opposed to 4 immigrants or foreign nationals, in your experience? 5 MR. deBETTENCOURT: Objection, form. 6 A I can't say I have a scientifically 7 developed view of the statistics on it, but either 8 collusion, where an employer lies to us, on either 9 the high side or the low side because they're trying 10 to help somebody out, or where you've got deep 11 assistance programs and somebody is deliberately 12 misstating their income on the low side, which is a 13 federal offense, you know, those situations, in most 14 cases, you're going to be dealing with somebody 15 that's here legally. As I mentioned earlier on in 16 this process today, we did have a raid, it did 17 emerge that somebody was here on forged documents. 18 They looked, at first impression, like they were 19 legitimate. They turned out not to be. 20 MS. ODOM: 21 Q How did it come to your attention that the 22 documents were forged?</p>

Conducted on December 20, 2016

<p>69</p> <p>1 MR. deBETTENCOURT: Objection, form.</p> <p>2 A When my site manager had a conversation</p> <p>3 with the Assistant U.S. Attorney and they were</p> <p>4 starting to work the case up after the raid.</p> <p>5 MS. ODOM:</p> <p>6 Q In your experience, is there any way to</p> <p>7 assess whether a document is a forgery, short of</p> <p>8 talking to the DOJ, for example?</p> <p>9 MR. deBETTENCOURT: Same objection.</p> <p>10 A Well, most of the documents that we see in</p> <p>11 application processes in recent years have been</p> <p>12 moved to more secure forms of documentation, meaning</p> <p>13 that if you know what you're looking at, it's</p> <p>14 tougher to misrepresent a document than it used to</p> <p>15 be. But I have occasionally seen some mighty good</p> <p>16 forgeries.</p> <p>17 MS. ODOM:</p> <p>18 Q So how have the document verification</p> <p>19 processes changed to make it more difficult to pass</p> <p>20 off a forgery? Can you give me some specifics on</p> <p>21 that?</p> <p>22 MR. deBETTENCOURT: Same objection.</p>	<p>71</p> <p>1 Q When you said you've seen some --</p> <p>2 THE WITNESS: Guys?</p> <p>3 MS. ODOM: I'm sorry, please go ahead.</p> <p>4 THE WITNESS: We need a quick break. This</p> <p>5 is my sister on the phone. She doesn't normally call</p> <p>6 me. I'm going to step out. I'll be right back.</p> <p>7 (Off the record.)</p> <p>8 BY MS. ODOM:</p> <p>9 Q So before we took the brief break we were</p> <p>10 talking about the need to verify someone's sustained</p> <p>11 legitimate employment as part of the underwriting of</p> <p>12 a lease.</p> <p>13 A Mm-hmm.</p> <p>14 Q Would an alternative be to verify whether</p> <p>15 an applicant has reserved funds sufficient to cover</p> <p>16 the rental amounts for the lease period as opposed</p> <p>17 to employment?</p> <p>18 A Well, in some cases you will be dealing</p> <p>19 with someone that's either living off assets or has</p> <p>20 transfer payments or things like that, yes,</p> <p>21 particularly when you're dealing with a senior</p> <p>22 citizen that's no longer working, but, again,</p>
<p>70</p> <p>1 A Well, I guess the first specific is if you</p> <p>2 reach into your purse and get out your driver's</p> <p>3 license, it looks a lot different than the driver's</p> <p>4 licenses we got when I first started driving 50</p> <p>5 years ago. Mine didn't have a picture on it. It</p> <p>6 didn't have a piece of paper. I'll just give you</p> <p>7 one illustration. This is not directly relevant,</p> <p>8 but I'm getting close. That's my NEXUS card from</p> <p>9 Customs (indicating). It has four or five, on each</p> <p>10 side, infrared, readable security features and all</p> <p>11 kind of other stuff, including this goofy little</p> <p>12 globe and all that other stuff. I mean, a lot of</p> <p>13 the documents you see now are higher security. If</p> <p>14 you have a passport, you've probably seen the recent</p> <p>15 ones, and higher security now with an electronic</p> <p>16 chip in them. So, you know, the documents we see</p> <p>17 are higher security than they used to be. The one</p> <p>18 that still is the lowest security on the planet, as</p> <p>19 near as I can ascertain, is the Social Security card</p> <p>20 because it's still printed on paper and it doesn't</p> <p>21 have any security features to it.</p> <p>22 MS. ODOM:</p>	<p>72</p> <p>1 there's ways to verify those sources as well.</p> <p>2 Q And would a person's legal status in the</p> <p>3 United States necessarily be relevant to whether</p> <p>4 they had reserved funds or assets available to pay</p> <p>5 the rental amounts?</p> <p>6 A Help me out. I'm trying to understand what</p> <p>7 you're asking here.</p> <p>8 Q Sure. So if the person's legal status is</p> <p>9 relevant to whether they can get employment and</p> <p>10 that's part of --</p> <p>11 A Mm-hmm.</p> <p>12 Q -- the risk assessment for a potential</p> <p>13 lease, my question is --</p> <p>14 A Mm-hmm.</p> <p>15 Q -- do we still care, in underwriting a</p> <p>16 lease, if the person is legally present in the</p> <p>17 United States if they've been able to demonstrate</p> <p>18 the funds available to pay the rental amounts for</p> <p>19 the lease?</p> <p>20 A You run into the conundrum of if you don't</p> <p>21 underwrite every lease exactly the same way and</p> <p>22 verify the same things, you have the Fair Housing</p>

Conducted on December 20, 2016

<p style="text-align: right;">73</p> <p>1 exposure.</p> <p>2 Q And what statute would that be?</p> <p>3 MR. deBETTENCOURT: Objection, form.</p> <p>4 A I don't carry it around, but you've got</p> <p>5 the -- I mean, you have three major Fair Housing</p> <p>6 Acts and you have enough implementation language on</p> <p>7 that, on the HUD side, that it literally fills</p> <p>8 books, but the key thing that I've emphasized</p> <p>9 throughout here, and will continue to emphasize, is</p> <p>10 that you've got to underwrite every application</p> <p>11 using the same methodology all the time. In other</p> <p>12 words, you determine what your steps are to</p> <p>13 underwrite it, you follow the steps, you verify</p> <p>14 things in regard to those steps. You literally step</p> <p>15 through the process the same way for every</p> <p>16 applicant. Now, sources of income will vary, but</p> <p>17 you follow the process consistently for every</p> <p>18 applicant.</p> <p>19 MS. ODOM:</p> <p>20 Q Is a Social Security number required to</p> <p>21 verify the identity of a prospective applicant?</p> <p>22 A It's one of the pieces of information</p>	<p style="text-align: right;">75</p> <p>1 we come up with of those, and that's where Social</p> <p>2 Security numbers and dates of birth become really</p> <p>3 important, because you can get multiple people with</p> <p>4 the same name and they'll pop up, and you have to go</p> <p>5 isolate whether it's the person that you're looking</p> <p>6 at is the right person.</p> <p>7 Q So is a Social Security number used to pull</p> <p>8 up an individual on a sex offender registry or to</p> <p>9 pull up some sort of criminal file?</p> <p>10 MR. deBETTENCOURT: Objection, compound.</p> <p>11 A Depends on the state, depends on the</p> <p>12 locality, depends how they design the database.</p> <p>13 MS. ODOM:</p> <p>14 Q Are you familiar with the Yardi company?</p> <p>15 A I am.</p> <p>16 Q How are you familiar with Yardi?</p> <p>17 A For several years, for one of our big</p> <p>18 owners, we used the Yardi product suite.</p> <p>19 Q Was that Mid-City or Edgewood?</p> <p>20 A It was Edgewood.</p> <p>21 Q Does Edgewood still use Yardi?</p> <p>22 A We don't have those buildings anymore. We</p>
<p style="text-align: right;">74</p> <p>1 you're generally going to use. You'll generally be</p> <p>2 using date of birth as well, because most of the</p> <p>3 commercial databases that we use to do verifications</p> <p>4 are going to trigger off of those two items. And if</p> <p>5 you get a false positive, those are the two items</p> <p>6 that you start looking at to determine why you might</p> <p>7 have a false positive.</p> <p>8 Q Are there other pieces of information that</p> <p>9 could be used?</p> <p>10 A Well, typically, you're also going to use</p> <p>11 the last -- depending on their tenure, most of the</p> <p>12 commercial systems that I'm aware of that we use to</p> <p>13 do our verifications, are going to look at the last</p> <p>14 somewhere between five and seven years worth of</p> <p>15 residences, and they're going to look at the credit</p> <p>16 files, and the credit files are going to show names,</p> <p>17 addresses, residences, positions, and what have you</p> <p>18 in them, so it's all part of a blend. And then,</p> <p>19 finally, when you get to the last piece, which is</p> <p>20 checking on your criminal history and the sex</p> <p>21 offender registries, you're going to need those</p> <p>22 because you'd be surprised how many false positives</p>	<p style="text-align: right;">76</p> <p>1 were doing work for our colleagues at a major super</p> <p>2 regional bank, that I'd prefer not to identify, and</p> <p>3 they took back a portfolio of 15 properties, and</p> <p>4 this particular bank used -- Yardi also does banking</p> <p>5 and financial industry back-office software. Do you</p> <p>6 understand what I mean by that?</p> <p>7 Q I do.</p> <p>8 A Okay. Yardi has a suite of back office and</p> <p>9 this particular client wanted us to use Yardi on the</p> <p>10 front end because it uploaded to their back office</p> <p>11 more easily.</p> <p>12 Q Does Mid-City and Edgewood currently use an</p> <p>13 entity like Yardi to perform background checks on</p> <p>14 prospective tenants?</p> <p>15 A At this point we use exclusively RealPage</p> <p>16 software. We don't use -- RealPage is one of</p> <p>17 Yardi's competitors.</p> <p>18 Q Are you familiar with CoreLogic?</p> <p>19 A I've heard the name. Beyond that, I'm not.</p> <p>20 Q Does RealPage require a Social Security</p> <p>21 number to run a criminal background check?</p> <p>22 A Bearing in mind it's been a couple of years</p>

Conducted on December 20, 2016

<p style="text-align: right;">77</p> <p>1 since I've been inside that program, last time I</p> <p>2 looked that's one of the designators that's built</p> <p>3 into it, because it picks it up off of the</p> <p>4 applications automatically.</p> <p>5 Q My question is a little bit different. The</p> <p>6 question was whether a Social Security number is</p> <p>7 required to be input for the program to run?</p> <p>8 MR. deBETTENCOURT: Objection, form.</p> <p>9 A Remember, you get to customize the user</p> <p>10 interface with all these software programs, and our</p> <p>11 interface was customized so that it did require a</p> <p>12 Social Security number.</p> <p>13 MS. ODOM:</p> <p>14 Q Do you have any opinion on whether Yardi is</p> <p>15 a good quality company?</p> <p>16 MR. deBETTENCOURT: Objection, form.</p> <p>17 A I have friends who are either still senior</p> <p>18 executives there or recently-retired senior</p> <p>19 executives there and I hold them in very high</p> <p>20 regard. It's a quality company run by quality</p> <p>21 people.</p> <p>22 MS. ODOM:</p>	<p style="text-align: right;">79</p> <p>1 have to look further to see why you're getting the</p> <p>2 flag.</p> <p>3 MS. ODOM:</p> <p>4 Q But is a Social Security number able to</p> <p>5 reveal anything about prior residences?</p> <p>6 MR. deBETTENCOURT: Objection, form.</p> <p>7 A On its own, as a number, and not knowing</p> <p>8 how the software company set the algorithm up, I</p> <p>9 can't answer that, because these days all of that</p> <p>10 stuff is driven off of these big proprietary</p> <p>11 algorithms. And even if you're their customer, they</p> <p>12 won't let you see how exactly the black box works.</p> <p>13 MS. ODOM:</p> <p>14 Q Is a Social Security number required to run</p> <p>15 a credit check?</p> <p>16 MR. deBETTENCOURT: Objection, form.</p> <p>17 A There was a time, when I was doing business</p> <p>18 with TRW, that you wouldn't get one back if you</p> <p>19 didn't feed them one. I think these days, with the</p> <p>20 RealPage vendors that we have, that may no longer be</p> <p>21 the case. I haven't looked at the issue in a while.</p> <p>22 You have to understand I go so far back that when I</p>
<p style="text-align: right;">78</p> <p>1 Q Is a Social Security number able to reveal</p> <p>2 an applicant's past five to seven years of</p> <p>3 residences?</p> <p>4 A You're going to need to help me out what</p> <p>5 you're going for there because the Social Security</p> <p>6 number and underwriting leasing systems I'm familiar</p> <p>7 with is only one piece of the database you feed to</p> <p>8 it as it goes out and does its lookup.</p> <p>9 Q Okay, so my question is -- you mentioned as</p> <p>10 part of the verification of a tenant's identity in</p> <p>11 underwriting the lease --</p> <p>12 A Right, right.</p> <p>13 Q -- you get their Social Security number,</p> <p>14 you get their date of birth, and you said you also</p> <p>15 look at their past five to seven years of</p> <p>16 residences; is that right?</p> <p>17 MR. deBETTENCOURT: Objection, form.</p> <p>18 A We will ask them what their most recent</p> <p>19 three residences have been, because we're going to</p> <p>20 want to pick that up and compare it. Again, all of</p> <p>21 this is part of when you get the report back, if</p> <p>22 some data elements don't match, it flags it, and you</p>	<p style="text-align: right;">80</p> <p>1 did credit checks when I was first a site manager 45</p> <p>2 years ago, you literally called somebody and you</p> <p>3 could hear them rifling, on the other end of the</p> <p>4 phone, through a card index, and they read you what</p> <p>5 they have. These days it's all done inside these</p> <p>6 big algorithms and we don't see much of what it is.</p> <p>7 The site staff just gets a green, yellow or red</p> <p>8 indicator and handles it based on that. I mean, the</p> <p>9 system has been so thoroughly automated now, that</p> <p>10 you don't see inside the black box anymore. I don't</p> <p>11 know precisely how the black box works.</p> <p>12 MS. ODOM:</p> <p>13 Q Do you know whether an ITIN number can be</p> <p>14 used to run a credit check?</p> <p>15 A Against, since I'm using integrated systems</p> <p>16 and I'm not running stand-alone credit checks</p> <p>17 anymore, I can't speak to that.</p> <p>18 Q So you just don't have an opinion one way</p> <p>19 or another on that?</p> <p>20 MR. DeBETTENCOURT: Objection,</p> <p>21 mischaracterize.</p> <p>22 A (No verbal response.)</p>

Conducted on December 20, 2016

<p>81</p> <p>1 MS. ODOM:</p> <p>2 Q Why is it necessary to separately</p> <p>3 underwrite every adult in a household?</p> <p>4 MR. deBETTENCOURT: Objection, form.</p> <p>5 A In most cases the leases that we write are</p> <p>6 called joint and severals. You're a lawyer. You</p> <p>7 know what a joint and several lease is, so...</p> <p>8 MS. ODOM:</p> <p>9 Q So to make sure I understand your opinion</p> <p>10 right, it seems to be your testimony that you</p> <p>11 underwrite separately every adult applicant, so that</p> <p>12 each individual over the age of 18 in the household</p> <p>13 can be held responsible to pay the lease?</p> <p>14 MR. deBETTENCOURT: Objection,</p> <p>15 mischaracterize.</p> <p>16 MS. ODOM:</p> <p>17 Q Is that right?</p> <p>18 A We use joint and several leases, so we</p> <p>19 underwrite on the basis that under the joint and</p> <p>20 several provisions we can collect. Not everybody</p> <p>21 uses joint and several leases. We do.</p> <p>22 Q Are you aware of any landlords or</p>	<p>83</p> <p>1 Q And how you write leases is one of the</p> <p>2 subjects that is avoided?</p> <p>3 A How you write leases is one of the subjects</p> <p>4 that I studiously avoid, yes.</p> <p>5 Q So to the extent that you are giving an</p> <p>6 opinion in your report about how to underwrite a</p> <p>7 lease, it comes from your own personal experience</p> <p>8 over your career?</p> <p>9 A It comes from the leases I underwrite or in</p> <p>10 firms I control or am executive in.</p> <p>11 Q And not in any way from information that</p> <p>12 you've obtained from anyone else in the residential</p> <p>13 property management business?</p> <p>14 A (Inaudible.)</p> <p>15 MR. deBETTENCOURT: Objection, form.</p> <p>16 Sorry. Sorry, Mr. Caruso.</p> <p>17 Objection, form.</p> <p>18 THE WITNESS: Got it.</p> <p>19 MR. deBETTENCOURT: You may answer.</p> <p>20 A We don't have -- we don't sit and have</p> <p>21 conversations about that.</p> <p>22 MS. ODOM:</p>
<p>82</p> <p>1 residential property management companies in</p> <p>2 northern Virginia that do not use joint and several</p> <p>3 leases?</p> <p>4 A I'm going to answer that in a very</p> <p>5 elliptical way, and that is I specifically don't get</p> <p>6 into those kinds of conversations with my colleagues</p> <p>7 in Virginia or Maryland, because all of us are of a</p> <p>8 certain age and remember what happened to two big</p> <p>9 management companies that still exist, and I'm not</p> <p>10 going to embarrass them by naming them, when the</p> <p>11 Justice Department came after them for antitrust for</p> <p>12 discussing how they went about their business, and</p> <p>13 ruined three people's careers. So the short answer</p> <p>14 is I studiously avoid those conversations when I'm</p> <p>15 having lunch with my friends because there's some</p> <p>16 things you never talk about. You never talk about</p> <p>17 how you price your management services, you never</p> <p>18 talk about how you write leases, and you never talk</p> <p>19 about anything that can be deemed antitrust or</p> <p>20 collusive behavior. And I'm sure, as a member of</p> <p>21 the Bar, you understand exactly why I do that.</p> <p>22 There's some subjects you don't discuss.</p>	<p>84</p> <p>1 Q And included in how an entity may write a</p> <p>2 lease would be what documents that entity requires</p> <p>3 from its prospective tenants to apply?</p> <p>4 A Mm-hmm.</p> <p>5 MR. deBETTENCOURT: Objection, form.</p> <p>6 MS. ODOM:</p> <p>7 Q And how an entity may assess whether an</p> <p>8 individual is legally present within the United</p> <p>9 States?</p> <p>10 MR. deBETTENCOURT: Same objection.</p> <p>11 A I've been to some training forums where</p> <p>12 there's been generalized discussions about this is</p> <p>13 how you're going to need to report on this and this</p> <p>14 is what they're going to look at if they challenge</p> <p>15 you, and the they in this case being a regulator.</p> <p>16 So, yeah, from time to time I've been to legal</p> <p>17 updates on that, where the regulators have shared</p> <p>18 what they want to see.</p> <p>19 MS. ODOM:</p> <p>20 Q Does Edgewood and Mid-City write joint and</p> <p>21 several leases where one adult in the household is</p> <p>22 unemployed?</p>

Conducted on December 20, 2016

<p style="text-align: right;">85</p> <p>1 MR. deBETTENCOURT: Objection, form.</p> <p>2 A You're going to need to parse that question</p> <p>3 more carefully. On the conventional side we may</p> <p>4 well do it. On the assisted side there's a whole</p> <p>5 set of rules and there is literally an 800-page</p> <p>6 manual about how you write leases with family</p> <p>7 compositions on members over 18 that we have to</p> <p>8 comply with.</p> <p>9 MS. ODOM:</p> <p>10 Q Okay. So let's take it on the non-assisted</p> <p>11 side. So for --</p> <p>12 A Mm-hmm.</p> <p>13 Q -- properties or complexes that don't</p> <p>14 receive financial assistance from the government.</p> <p>15 A Mm-hmm.</p> <p>16 Q If you have, let's say, a couple that</p> <p>17 applies --</p> <p>18 A Mm-hmm.</p> <p>19 Q -- for a lease, and let's say the male is</p> <p>20 employed, but the female is a stay-at-home parent,</p> <p>21 for example, would Mid-City or Edgewood write such a</p> <p>22 lease?</p>	<p style="text-align: right;">87</p> <p>1 disabled and there's no transfer of payments, that</p> <p>2 immediately raises the flag, wait a minute, are they</p> <p>3 getting SSI or some other form of transfer payment,</p> <p>4 and they're not declaring it because it would raise</p> <p>5 their family contribution.</p> <p>6 Q But, again, just to remind you, we're</p> <p>7 discussing on the non-assisted side.</p> <p>8 A Yeah, okay. On the non-assisted side we'd</p> <p>9 probably still take a quick look at it, but I think</p> <p>10 if the one who is employed had enough income that</p> <p>11 they could cover it, yeah, but bear in mind, our</p> <p>12 policy is we also make sure that people are here</p> <p>13 legally.</p> <p>14 Q Well, same question and the same premise,</p> <p>15 on the non-assisted side if you have, let's say, a</p> <p>16 parent who applies, alongside a 19-year-old,</p> <p>17 unemployed child, would such a lease be written even</p> <p>18 though the child over the age of majority was</p> <p>19 unemployed?</p> <p>20 A Is the child a student?</p> <p>21 Q Let's assume no.</p> <p>22 A Again, you take -- I'll take it apart. And</p>
<p style="text-align: right;">86</p> <p>1 MR. DeBETTENCOURT: Same objection.</p> <p>2 A The short answer would be probably, if the</p> <p>3 income was sufficient, and the duration -- and</p> <p>4 the -- the employment history was steady enough that</p> <p>5 we didn't regard it as an untoward risk.</p> <p>6 MS. ODOM:</p> <p>7 Q Okay. Same question if you have a pair of</p> <p>8 applicants on the non-assisted side, and you have</p> <p>9 one individual, who is able-bodied and working, and</p> <p>10 you have one individual who's disabled and not</p> <p>11 receiving disability income and not able to work,</p> <p>12 would that lease be written as well under those same</p> <p>13 conditions that you stated?</p> <p>14 MR. deBETTENCOURT: Same objection.</p> <p>15 A That would get looked at a lot more</p> <p>16 carefully and taken apart, because it's been my</p> <p>17 experience you have almost nobody that's fully</p> <p>18 disabled that doesn't have some form of transfer</p> <p>19 payment coming to them.</p> <p>20 MS. ODOM:</p> <p>21 Q Why would that be looked at more carefully?</p> <p>22 A Well, if they're saying -- if somebody is</p>	<p style="text-align: right;">88</p> <p>1 if it's an adult child living at home, again, if</p> <p>2 the -- well, we're going to get down in the weeds.</p> <p>3 Is that adult child on the lease as a leaseholder or</p> <p>4 are they on the lease as another adult present in</p> <p>5 the household?</p> <p>6 Q As another adult present in the household.</p> <p>7 A Well, that means they're not responsible</p> <p>8 for payment of the rent.</p> <p>9 Q Okay. So --</p> <p>10 A And they don't have any hold over tenancy</p> <p>11 rights either.</p> <p>12 Q So just to make sure I understand the</p> <p>13 details of the joint and several leases that we're</p> <p>14 discussing, that Edgewood and Mid-City write, even</p> <p>15 though every adult in the household must submit an</p> <p>16 application, it can be the case that only one adult</p> <p>17 is actually responsible for payment of the lease?</p> <p>18 MR. deBETTENCOURT: Objection, mis --</p> <p>19 A No, they're both responsible for payment --</p> <p>20 MR. deBETTENCOURT: Sorry, Mr. Caruso.</p> <p>21 THE WITNESS: Go ahead.</p> <p>22 MR. deBETTENCOURT: Objection,</p>

Conducted on December 20, 2016

<p style="text-align: right;">89</p> <p>1 mischaracterize.</p> <p>2 You may answer.</p> <p>3 A That was where I was going. You gotta be</p> <p>4 careful about that and that's far too general an</p> <p>5 answer. You've gotta make sure that the lease is</p> <p>6 going to get paid. And, again, since it's a joint</p> <p>7 and several, you can collect against everybody</p> <p>8 whether they have income or not.</p> <p>9 MS. ODOM:</p> <p>10 Q Even if one individual is a resident and</p> <p>11 one individual --</p> <p>12 A If they're a person on the lease, you're</p> <p>13 going to take everybody to court, not just the</p> <p>14 person who has a job.</p> <p>15 Q Should it be different in the case of a</p> <p>16 husband, for example, who meets all the underwriting</p> <p>17 requirements, but his wife is unable to, even though</p> <p>18 she's only a resident?</p> <p>19 MR. deBETTENCOURT: Objection, form.</p> <p>20 A If it's a spouse, we probably wouldn't cut</p> <p>21 the lease where they're only a resident. We want</p> <p>22 everybody to meet all the requirements. That</p>	<p style="text-align: right;">91</p> <p>1 on the same terms. So if you have --</p> <p>2 A I don't want to be accused of -- I don't</p> <p>3 want to be accused of disparate policies on the</p> <p>4 assisted versus the conventional side. We use one</p> <p>5 set of policies. We've chosen to adopt the federal</p> <p>6 standard across the board.</p> <p>7 Q Okay. Well, I'd like to -- what I'm trying</p> <p>8 to do is just understand the contours of the</p> <p>9 opinions that you've offered in the case.</p> <p>10 A Mm-hmm.</p> <p>11 Q And so in that vein, I'd like to ask you to</p> <p>12 consider this hypothetical, which I'll go ahead and</p> <p>13 lay out. If you have a property that's not assisted</p> <p>14 and it doesn't have a side of the business that is</p> <p>15 assisted, there's no -- there's not going to be a</p> <p>16 claim of disparate treatment on the assisted versus</p> <p>17 non-assisted side, and that property writes a lease</p> <p>18 for a male applicant, who meets underwriting</p> <p>19 criteria, and the only reason why a lease is being</p> <p>20 terminated is because that individual's wife is</p> <p>21 undocumented, would that be something that Mid-City</p> <p>22 and Edgewood would terminate a lease for?</p>
<p style="text-align: right;">90</p> <p>1 doesn't necessarily equate to she has to have a job,</p> <p>2 but it means she has to meet all the other</p> <p>3 requirements.</p> <p>4 MS. ODOM:</p> <p>5 Q So to make sure I understand your answer,</p> <p>6 Edgewood and Mid-City would not terminate a lease if</p> <p>7 a male met all of the underwriting requirements,</p> <p>8 including legal status in the U.S., but the wife,</p> <p>9 who was only listed as a resident in the home, did</p> <p>10 not meet the same requirements?</p> <p>11 MR. deBETTENCOURT: Objection,</p> <p>12 mischaracterize.</p> <p>13 MS. ODOM:</p> <p>14 Q You can answer.</p> <p>15 A Well, as Counsel said, you're</p> <p>16 mischaracterizing it. You've gotta be cautious</p> <p>17 there, and that is if the other adult present,</p> <p>18 meaning the wife, if they're not here legally, under</p> <p>19 the tenant selection plans we use, since they're</p> <p>20 consistent on both sides of the business, we're not</p> <p>21 going to cut a lease for her.</p> <p>22 Q I'm not sure -- I'm not sure we're talking</p>	<p style="text-align: right;">92</p> <p>1 MR. deBETTENCOURT: Objection, form.</p> <p>2 A Was the wife there -- was the wife there</p> <p>3 originally when the lease was first cut?</p> <p>4 MS. ODOM:</p> <p>5 Q Well, under our hypothetical the wife has</p> <p>6 always been present in the home, but there's been a</p> <p>7 recent policy change that required her to be listed</p> <p>8 on the lease as a resident.</p> <p>9 MR. deBETTENCOURT: Objection, form.</p> <p>10 A Okay, so, hypothetically -- not how I do</p> <p>11 it, but, hypothetically, there's been a policy</p> <p>12 change and now all the adults have to be on the</p> <p>13 lease. If your policy is that all adults having to</p> <p>14 be on the lease also have to reside here legally,</p> <p>15 you would not lease in that circumstance because</p> <p>16 it's a violation of the admission standards you've</p> <p>17 adopted. You've got to be consistent against your</p> <p>18 admission standards.</p> <p>19 MS. ODOM:</p> <p>20 Q Okay, well, again, we're talking about an</p> <p>21 existing lease. We're talking about a lease that</p> <p>22 existed before a policy emerged requiring the wife</p>

Conducted on December 20, 2016

<p style="text-align: right;">93</p> <p>1 to be on the policy.</p> <p>2 A Which means that the next time the lease</p> <p>3 comes up for its annual renewal, they have to meet a</p> <p>4 different set of standards because you've changed</p> <p>5 your tenant selection standards, which means that</p> <p>6 potentially that lease wouldn't be renewed if it</p> <p>7 didn't meet the new standards.</p> <p>8 Q Is that a reason for nonrenewal that</p> <p>9 Edgewood or Mid-City would put forward?</p> <p>10 MR. deBETTENCOURT: Objection, form</p> <p>11 A We were talking a hypothetical, not</p> <p>12 Edgewood and Mid-City, because Edgewood and Mid-City</p> <p>13 follow the federal rule. She wouldn't have gotten</p> <p>14 there to begin with because we would have made sure</p> <p>15 when we initially -- since 19, I don't know, 94,</p> <p>16 when these regs came in, we've underwritten</p> <p>17 everybody the same way.</p> <p>18 MS. ODOM:</p> <p>19 Q Have you read the Complaint in this case?</p> <p>20 A Nope, I have not. I have not.</p> <p>21 Q Do you think that the information contained</p> <p>22 in the Complaint may be relevant to your opinion?</p>	<p style="text-align: right;">95</p> <p>1 BY MS. ODOM:</p> <p>2 Q I wanted to go back to what was the</p> <p>3 question that you were asked to answer in your</p> <p>4 report?</p> <p>5 MR. DeBETTENCOURT: Objection.</p> <p>6 To the extent that this question calls for</p> <p>7 communications between counsel, on the basis of</p> <p>8 privilege, I'm going to instruct you not to answer.</p> <p>9 A I would be following the lawyer's</p> <p>10 instructions.</p> <p>11 MS. ODOM:</p> <p>12 Q Are you able to tell me anything about what</p> <p>13 the purpose of your report is?</p> <p>14 MR. deBETTENCOURT: Mr. Caruso, you can</p> <p>15 discuss the facts and data you relied on in your</p> <p>16 report, the opinions that you came to in your report,</p> <p>17 but the communications with counsel about your report</p> <p>18 are privileged under Rule 26.</p> <p>19 THE WITNESS: Okay.</p> <p>20 A Very generally, the questions that were</p> <p>21 posed to me are what is your normal practice and</p> <p>22 what do you believe to be the industry practices,</p>
<p style="text-align: right;">94</p> <p>1 A I was asked a fairly narrow set of</p> <p>2 questions, and that is what do you think is the</p> <p>3 appropriate set of standards --</p> <p>4 MR. deBETTENCOURT: Mr. Caruso, to the</p> <p>5 extent --</p> <p>6 THE WITNESS: Go ahead.</p> <p>7 MR. deBETTENCOURT: -- to the extent this</p> <p>8 question calls for any communications with counsel,</p> <p>9 I'm going to instruct you not to answer. You may</p> <p>10 answer the question outside of -- outside of that.</p> <p>11 And I'm instructing you not to answer on the basis of</p> <p>12 privilege.</p> <p>13 A Then I think we have our answer.</p> <p>14 MS. ODOM:</p> <p>15 Q So I want to make sure I understand the</p> <p>16 extent of the opinions that you're offering in this</p> <p>17 case.</p> <p>18 A I'll be happy to let you understand it in</p> <p>19 three minutes.</p> <p>20 MS. ODOM: Okay. We'll go off the record</p> <p>21 and take a quick break.</p> <p>22 (Off the record.)</p>	<p style="text-align: right;">96</p> <p>1 and that's what I -- that's what I discussed, those</p> <p>2 three basic elements that all tie together.</p> <p>3 MS. ODOM:</p> <p>4 Q And I believe, as you testified earlier,</p> <p>5 and I don't want to misstate it, so please correct</p> <p>6 me if I'm wrong, but your relation of what industry</p> <p>7 practice is is based on your own personal knowledge</p> <p>8 over your career; is that right?</p> <p>9 MR. deBETTENCOURT: Objection, mischarac --</p> <p>10 A That's correct.</p> <p>11 MS. ODOM:</p> <p>12 Q Because it's not advisable or possible to</p> <p>13 discuss things like how to write a lease with other</p> <p>14 property management companies?</p> <p>15 MR. deBETTENCOURT: Same objection.</p> <p>16 A As I said earlier, I saw some friends'</p> <p>17 careers end up in flames over those discussions, so,</p> <p>18 yes, I've been very careful about that.</p> <p>19 MS. ODOM:</p> <p>20 Q So we've mentioned a few times, in the</p> <p>21 1990s there became legislation about fair housing,</p> <p>22 and I want to make sure that we're talking about the</p>

Conducted on December 20, 2016

<p style="text-align: right;">97</p> <p>1 same act. Are you referring to the Personal 2 Responsibility and Work Opportunity Reconciliation 3 Act of 1996? 4 MR. deBETTENCOURT: Objection, form. 5 MS. ODOM: 6 Q It's called PRWORA colloquially. 7 A I'd have to go stick my head -- was the 8 principal sponsor on that Henry Hyde? 9 Q I can look and check. 10 A The reason I say that is we've always 11 called it internally the Hyde bill, but 12 Representative Hyde was chairman of the committee. 13 You know, I've had to deal, over the years, with all 14 these long acronyms that they invent over on the 15 Hill and I've gotten to the point where, 16 unfortunately, I know most things by bill numbers, 17 not by bill titles, because it's just easier. I 18 think, but can't guarantee, we're talking about the 19 same thing. 20 Q And your opinion and testimony is that 21 federal regulations require entities who receive 22 deep assistance to check legal status of tenants?</p>	<p style="text-align: right;">99</p> <p>1 MR. deBETTENCOURT: Objection, foundation. 2 A Yup, I would have to research that 3 specifically. I don't want to guess. I don't do 4 guessing, or at least I don't guess very well. 5 MS. ODOM: 6 Q Do the HUD manuals that you have been 7 describing regulate Waples Mobile Home Park? 8 A Again, not knowing the financial structure 9 underlying it, I don't -- I can't answer that. 10 Q What would you need to know to be able to 11 answer that question? 12 A At the minimum, I'd need to know how the 13 deal is financed, who holds the notes, and what 14 forms of assistance, if any, are granted, and 15 whether or not there's any -- you can get swept into 16 these requirements by having community development 17 block grant money in a property, you can get swept 18 in by having CBE money in the property. You can 19 get -- there's a number of ways you can get swept 20 into compliance on these rules by accepting various 21 funds for various things, including infrastructure 22 work. So without actually sitting and looking at</p>
<p style="text-align: right;">98</p> <p>1 MR. deBETTENCOURT: Objection, 2 mischaracterize. 3 A Among other places, that's a requirement in 4 the HUD Occupancy Handbook, 4350.3. It's also a 5 requirement in the HUD Public Housing Handbook of 6 similar type. I don't remember the PIH. 7 THE WITNESS: That's -- for our recorder, 8 that's Public and Indian Housing. Sorry I was 9 engaging in HUD speak. 10 A PIH also has a manual that relates to a 11 different manual number, but that's a requirement of 12 the 4350.3, which goes upwards and connects with the 13 legislation. 14 MS. ODOM: 15 Q Do you know whether PRWORA that was passed 16 in 1996 regulates Waples Mobile Home Park? 17 MR. deBETTENCOURT: Objection, form. 18 A Without sitting down and reading the bill, 19 I wouldn't be able to answer that. 20 MS. ODOM: 21 Q And same answer as to whether it applies to 22 any of the other A.J. Dwoskin properties?</p>	<p style="text-align: right;">100</p> <p>1 the documents, I would decline to speculate. 2 Q Well, what types of documents would we look 3 at for the Waples Mobile Home Park? 4 MR. deBETTENCOURT: Objection, form. 5 A You'd probably start with the 6 partnershiping (phonetic). Number one, I don't 7 know if it's a partnership or corporation, or an 8 LLC, so you need to figure out what the entity is 9 for starters. And then you start taking a look at 10 what the financing is on it, and you look and see if 11 there's any inbound money from a local agency that 12 takes federal money, from a state agency that takes 13 federal money, or from a federal agency. You'd have 14 to look, generally, at all of those when you start 15 doing it. I know how our deals are structured and 16 where they are. And the reason we came to the 17 decision we did was we wanted a one-size-fits-all, 18 so as to not drive our staff crazy. And what we do, 19 as I said before, is we went to the most 20 restrictive, complying with the federal rules for 21 everything we operate. 22 MS. ODOM:</p>

Conducted on December 20, 2016

<p>101</p> <p>1 Q Would part of that staff be property 2 managers?</p> <p>3 A Yeah, site managers.</p> <p>4 Q So would you expect site managers to know 5 whether a HUD manual applies to a particular 6 property?</p> <p>7 MR. deBETTENCOURT: Objection, form.</p> <p>8 A I can't speak -- I can't speak for other 9 companies. I can say that over the nature of my 10 career, I want my site managers to know how they're 11 regulated and I want them to know the particulars. 12 Having said that, I am unusual in this business in 13 the sense that I also share with my site managers 14 something a lot of my colleagues do not. My site 15 managers know how the properties are financed and my 16 site managers have access to budgets and payrolls.</p> <p>17 MS. ODOM:</p> <p>18 Q How do you know that your colleagues in the 19 industry do not share that financial information 20 with property managers?</p> <p>21 A I've been in enough meetings and lunches 22 with colleagues, where we've discussed budgeting</p>	<p>103</p> <p>1 verification of an individual's legal status in the 2 United States?</p> <p>3 MR. deBETTENCOURT: Objection, asked and 4 answered.</p> <p>5 MS. ODOM:</p> <p>6 Q You can answer.</p> <p>7 A Because it's more convenient for me to do 8 so, I run all of my tenancy checks through the 9 company, rather than buying separate licensing. So 10 the short answer is that my tenants get subjected to 11 the same standards as anybody that leases from 12 Edgewood.</p> <p>13 Q Give us just one second, Mr. Caruso. I 14 think we're just about done.</p> <p>15 A Sure.</p> <p>16 Q But let me check with my colleague.</p> <p>17 A Okay.</p> <p>18 Q One last question for you. Do you have an 19 opinion on whether undocumented tenants are any more 20 dangerous or likely to be a risk to the safety of 21 the community than documented individuals?</p> <p>22 A With all due respect, Counselor, that's</p>
<p>102</p> <p>1 matters and other things, that there's a wide 2 variance among firms as to what site managers and 3 first-level supervisors know and what they don't 4 know in terms of how the company is organized and 5 how things are done. Various owners have various 6 policies on that. We take a very liberal view, but 7 we make it very clear to our folks that all this is 8 considered confidential information, and they're 9 going to be sitting in my office, having a career -- 10 a potentially career-changing discussion if any of 11 that material is shared outside of the company, but 12 not everybody takes as broad a view as I do.</p> <p>13 Q Do the HUD manuals regulate any A.J. 14 Dwoskin policy or property, to your knowledge?</p> <p>15 MR. deBETTENCOURT: Objection, form.</p> <p>16 A Don't know. Can't answer without knowing 17 how they're structured.</p> <p>18 MS. ODOM:</p> <p>19 Q In your own personal assets that you have 20 in management --</p> <p>21 A Mm-hmm.</p> <p>22 Q -- do you have a policy related to the</p>	<p>104</p> <p>1 kind of like asking, when did you stop beating your 2 wife to a politician.</p> <p>3 Q Well, respectfully, I think it is a little 4 bit different. Do you have any experience that 5 leads you to believe they're more dangerous?</p> <p>6 MR. deBETTENCOURT: You may continue, 7 Mr. Caruso.</p> <p>8 A It's been my experience that I can have -- 9 I got -- I'm very blessed to have the vast majority 10 of the folks that live with us are good people and 11 do the right thing all the time. We have some 12 number of rogues, fools, thieves, and bad actors 13 among us. I've never differentiated as to whether 14 or not they're here legally or not, because the 15 bottom line is if you're dealing drugs on one of my 16 properties, you're going to be off of my properties. 17 If you're assaulting somebody, you're going to be 18 off of my properties. And whether you're here 19 legally or not is not going to be one of the first 20 considerations in my mind. The first consideration 21 in my mind is you're going. So that may be an 22 elliptical answer, but that's what it comes down to.</p>

Conducted on December 20, 2016

<p style="text-align: right;">105</p> <p>1 I haven't studied the statistics. So there you are,</p> <p>2 Joy.</p> <p>3 MS. ODOM:</p> <p>4 Q So if I understand your answer, you don't</p> <p>5 have any specialized -- or knowledge one way or</p> <p>6 another as to whether undocumented immigrants pose a</p> <p>7 greater risk to safety than documented tenants?</p> <p>8 MR. deBETTENCOURT: Objection,</p> <p>9 mischaracterize --</p> <p>10 (Simultaneous conversation.)</p> <p>11 A (Inaudible.)</p> <p>12 MS. ODOM:</p> <p>13 Q Do you have any --</p> <p>14 (At which time the court reporter requested</p> <p>15 clarification regarding the answer.)</p> <p>16 A Well, let's just go with the objection, but</p> <p>17 we have bad behavior. I don't try to parse it</p> <p>18 between people that are here legally and people that</p> <p>19 are not. Bad actors are going to go out of my</p> <p>20 properties.</p> <p>21 MS. ODOM:</p> <p>22 Q Mr. Caruso, do you have any specialized</p>	<p style="text-align: right;">107</p> <p>1 capacity?</p> <p>2 A On a fairly regular basis, when we do</p> <p>3 refinancings, we have to submit with the refinancing</p> <p>4 applications evaluations of crime in both the</p> <p>5 neighborhood and in our particular properties,</p> <p>6 because that's reviewed as part of grant-making and</p> <p>7 other decisions, so there have been instances where</p> <p>8 I've had to get intensively into data. I have also</p> <p>9 had to respond to, in the District of Columbia,</p> <p>10 petitions to seize property over criminal behavior</p> <p>11 on properties for some of my fee owners. Not to</p> <p>12 make a long answer out of it, the Assistant U.S.</p> <p>13 Attorneys have a statute in D.C. that allows them to</p> <p>14 initiate procedures to seize property if they see</p> <p>15 that the owner is not combatting crime and drugs</p> <p>16 effectively, and I've had to respond to some of</p> <p>17 those complaints post raids.</p> <p>18 Q Did the data that you're referring to in</p> <p>19 that answer relate in any way to an undocumented</p> <p>20 immigrant subset of the population in either the</p> <p>21 communities of Mid-City and Edgewood or outside?</p> <p>22 A Among the data you have to pull is you have</p>
<p style="text-align: right;">106</p> <p>1 knowledge as to whether crime rates are higher or</p> <p>2 lower in an undocumented immigrant population as</p> <p>3 opposed to citizens or documented immigrants?</p> <p>4 A We, from time to time, as part of our</p> <p>5 reporting to ownership, look at major crimes and we</p> <p>6 work with the police agencies of all the places</p> <p>7 where I work. And it has been my experience that</p> <p>8 criminal behavior is more tied to lack of income and</p> <p>9 lack of education than just about any other index</p> <p>10 you're going to find.</p> <p>11 Q Do you have any specialized knowledge as to</p> <p>12 whether undocumented tenants are any more likely not</p> <p>13 to pay rent?</p> <p>14 A Meaning do I have empirical knowledge of</p> <p>15 that?</p> <p>16 Q Sure. Let's start there.</p> <p>17 A No, I don't have empirical data on that.</p> <p>18 Q Do you have any sort of data on that?</p> <p>19 A Occasional conversations over lunch with</p> <p>20 some of my colleagues, but none of it would rise to</p> <p>21 the level of even the most basic scientific rigor.</p> <p>22 Q Have you researched it otherwise in any</p>	<p style="text-align: right;">108</p> <p>1 to get with the police agencies, pull the arrest</p> <p>2 records, and pull the backgrounds on the arrest</p> <p>3 records, in some cases your lawyers will be looking</p> <p>4 at the court records, so occasionally,</p> <p>5 coincidentally, it will pop up as to what status</p> <p>6 might be. In most cases it's going to be</p> <p>7 demonstrating that you are taking the necessary</p> <p>8 steps not to admit people to a property who are</p> <p>9 likely to prey on other people and who are not going</p> <p>10 to be in there distributing drugs and in there</p> <p>11 distributing -- in the case of the District, in the</p> <p>12 case of Maryland, in there distributing weapons.</p> <p>13 Virginia has much different set of rules regarding</p> <p>14 weapons than do the District and Maryland and New</p> <p>15 Jersey.</p> <p>16 Q But did those efforts to collect and report</p> <p>17 data tell you anything or enable you to learn</p> <p>18 anything about whether undocumented immigrants are</p> <p>19 more likely to be violent, for example, than a</p> <p>20 documented person?</p> <p>21 MR. deBETTENCOURT: Objection, form.</p> <p>22 A I haven't seen any data leaping off the</p>

Conducted on December 20, 2016

<p style="text-align: right;">109</p> <p>1 page speaking one way or the other to it. The only</p> <p>2 corollary that I would suggest, because I have seen</p> <p>3 this, is to the extent someone is working in the</p> <p>4 black economy, it makes them more prey to earning</p> <p>5 their living in inappropriate ways, meaning if the</p> <p>6 only job you can get is one distributing drugs or</p> <p>7 moving illegal weapons or stealing automobiles, you</p> <p>8 might see a correlation.</p> <p>9 MS. ODOM:</p> <p>10 Q Is it your opinion that individuals engaged</p> <p>11 in those criminal enterprises are more likely to be</p> <p>12 undocumented immigrants?</p> <p>13 MR. deBETTENCOURT: Objection, form.</p> <p>14 A No, I didn't say that. I just said if you</p> <p>15 can't get legitimate employment otherwise. Now,</p> <p>16 there's a lot of reasons why you might not be able</p> <p>17 to get legitimate employment otherwise, not least of</p> <p>18 which is you've recently been released from prison,</p> <p>19 not least of which is you don't have an education,</p> <p>20 not least of which is a number of things, but, you</p> <p>21 know, recognizing that I've had to spend a lot of</p> <p>22 the last 30 years fighting drugs and other things in</p>	<p style="text-align: right;">111</p> <p>1 skips, but we attribute that, for the most part,</p> <p>2 that we are pretty careful on admits.</p> <p>3 MS. ODOM:</p> <p>4 Q Outside the Edgewood and Mid-City context,</p> <p>5 are you aware of whether skips, as you put it, are</p> <p>6 more likely to be undocumented immigrants?</p> <p>7 A I don't really have any data on it because</p> <p>8 I haven't had any conversations with any of my</p> <p>9 colleagues on it one way or the other.</p> <p>10 Q Do you have any specialized knowledge as to</p> <p>11 whether it's more difficult to properly identify a</p> <p>12 prospective tenant? And for reference, I'm looking</p> <p>13 at page 2 of your report, where it discusses the</p> <p>14 fundamental part of underwriting a lease application</p> <p>15 is having proper identification of the applicant.</p> <p>16 MR. deBETTENCOURT: Objection, form.</p> <p>17 You may answer.</p> <p>18 A You need to know who they are and you need</p> <p>19 to be able to determine what their payment history</p> <p>20 is and what have you.</p> <p>21 MS. ODOM:</p> <p>22 Q Is it your opinion that you're unable to</p>
<p style="text-align: right;">110</p> <p>1 properties, we see that when we are on the back side</p> <p>2 of a raid and trying to make sure that we don't</p> <p>3 admit those kinds of folks again.</p> <p>4 MS. ODOM:</p> <p>5 Q Do you have any specialized knowledge as to</p> <p>6 whether undocumented tenants are more likely to</p> <p>7 leave a property without giving appropriate notice</p> <p>8 to the landlord?</p> <p>9 MR. deBETTENCOURT: Objection, form.</p> <p>10 A I don't think I have a strong opinion one</p> <p>11 way or the other on that.</p> <p>12 MS. ODOM:</p> <p>13 Q Setting aside whether you have an opinion</p> <p>14 on it, do you have any knowledge about it?</p> <p>15 MR. deBETTENCOURT: Same objection.</p> <p>16 A Our underwriting process is strict enough</p> <p>17 that the rate of skips, meaning people leaving,</p> <p>18 owing you money, or just disappearing in the middle</p> <p>19 of the night -- the rate of skips we have is a very</p> <p>20 low number. It's down in the single digits, and I</p> <p>21 mean well down in the single digits, so the answer</p> <p>22 is, by and large, we don't have much in the way of</p>	<p style="text-align: right;">112</p> <p>1 determine identity and payment history on an</p> <p>2 undocumented immigrant?</p> <p>3 MR. deBETTENCOURT: Objection,</p> <p>4 mischaracterize.</p> <p>5 THE WITNESS: I think you said it nicely.</p> <p>6 A That does mischaracterize my view a little</p> <p>7 bit. What it comes down to is it's much more</p> <p>8 difficult to get data because you don't know where</p> <p>9 to find it and you can't do a sufficient background.</p> <p>10 MS. ODOM:</p> <p>11 Q Do you have any specialized knowledge as to</p> <p>12 what information is required to pull up an</p> <p>13 individual on the sex offender registry?</p> <p>14 MR. deBETTENCOURT: Objection, form.</p> <p>15 A We've talked about that earlier. It varies</p> <p>16 widely by state and locality, so depending on where</p> <p>17 you're operating and depending what you're trying to</p> <p>18 pull, you may have to follow a different procedure.</p> <p>19 MS. ODOM:</p> <p>20 Q Do you have any specialized knowledge as to</p> <p>21 whether a Social Security number is ever required,</p> <p>22 no matter what state you're in, to pull up an</p>

Conducted on December 20, 2016

<p>113</p> <p>1 individual on the sex offender registry?</p> <p>2 MR. deBETTENCOURT: Same objection.</p> <p>3 A The records I've seen are generally, among</p> <p>4 other things, going to have that number in among a</p> <p>5 bunch of other data, not least of which it will also</p> <p>6 have convict numbers if they've served time, but</p> <p>7 it's going to have other identifying data. It's</p> <p>8 going to have data of birth. And in most cases you</p> <p>9 can have most of the data that's on the booking</p> <p>10 sheet, too, plus, in a lot of instances, you're</p> <p>11 going to have online availability for mugshots.</p> <p>12 You've got to be especially careful with sex</p> <p>13 offender data because the data, you can get false</p> <p>14 positives real easily, and you don't want to accuse</p> <p>15 someone of something that's not true, so you gotta</p> <p>16 be really careful on vetting out those records.</p> <p>17 MS. ODOM:</p> <p>18 Q Is a Social Security number necessary to</p> <p>19 vet those records?</p> <p>20 MR. deBETTENCOURT: Objection, form.</p> <p>21 A Once again, since everybody does their</p> <p>22 files differently, I can't tell you how important it</p>	<p>115</p> <p>1 that in the conventional, non-assisted, and non-HUD</p> <p>2 context it's a reasonable practice to require proof</p> <p>3 of legal status as part of an application process?</p> <p>4 A I think so.</p> <p>5 Q And why does that opinion that you just</p> <p>6 gave, that you think so, apply to the conventional,</p> <p>7 non-assisted, and non-HUD context?</p> <p>8 A Well, a couple reasons, Justin. Number</p> <p>9 one, particularly when you get into medium-sized and</p> <p>10 larger firms, you have to be very careful to be dead</p> <p>11 consistent about everything you do, or else you're</p> <p>12 going to be facing all kinds of issues all the time.</p> <p>13 As I said earlier, I've worked, in the last 25 years</p> <p>14 or thereabouts, in mixed portfolio companies, where</p> <p>15 we had both unassisted and assisted, and we've</p> <p>16 always adopted the more restrictive set of standards</p> <p>17 just because it gives us the consistency and doesn't</p> <p>18 create Fair Housing problems. You've gotta -- you</p> <p>19 know, you have to be very cautious in terms of how</p> <p>20 you operate in relation to confidentiality support,</p> <p>21 good vetting support. You want good residents and a</p> <p>22 good solid community, and you need to make sure</p>
<p>114</p> <p>1 is vis-à-vis the other pieces of information without</p> <p>2 you saying, okay, in Fairfax County what do you have</p> <p>3 to have, and then I have to go look up what I have</p> <p>4 to do in Fairfax County, because that's -- the</p> <p>5 process is inherently local and it varies enough</p> <p>6 that you can't make broad generalizations about it.</p> <p>7 MS. ODOM: All right, thanks, Mr. Caruso. I</p> <p>8 think that's it for me. I'm not sure if</p> <p>9 Mr. deBettencourt has anything.</p> <p>10 MR. deBETTENCOURT: Mr. Caruso, I do have a</p> <p>11 couple questions. Actually, I'm going to take just a</p> <p>12 two-minute break here.</p> <p>13 MS. ODOM: Sure.</p> <p>14 MR. deBETTENCOURT: And then I'll have some</p> <p>15 questions for you, Mr. Caruso. So we're going to</p> <p>16 take a break and then I'll have a couple questions.</p> <p>17 (Off the record.)</p> <p>18 EXAMINATION BY COUNSEL FOR THE DEFENDANTS</p> <p>19 BY MR. deBETTENCOURT:</p> <p>20 Q Hi Mr. Caruso, this is Justin</p> <p>21 deBettencourt. I just have a couple questions to</p> <p>22 follow up on Counsel's questions. Isn't it true</p>	<p>116</p> <p>1 everybody else is safe. So the long and short of it</p> <p>2 is I think it's part of the whole package. And it</p> <p>3 became more so when Congress made the changes and</p> <p>4 made it illegal to give anybody work unless they</p> <p>5 were here legally. So you kind of look at the broad</p> <p>6 sweep of this stuff and you say is this a -- you</p> <p>7 know, is it unusual to do that. And I don't think</p> <p>8 it is. I think it's a consistent, thoughtful</p> <p>9 policy.</p> <p>10 Q Isn't it true that asking for immigration</p> <p>11 documents from the U.S. government helps a landlord</p> <p>12 verify the identity of an applicant or tenant?</p> <p>13 A Yeah. As a matter of fact, in most cases</p> <p>14 you have to get decent third-party verification, and</p> <p>15 government documents is -- are among the gold</p> <p>16 standards in terms of decent third-party</p> <p>17 documentation. You might recall, I don't know, I</p> <p>18 guess three hours ago when we started this, Joy</p> <p>19 mentioned, you know, can you take pay stubs. Well,</p> <p>20 you do it, but it's a very desperate last measure</p> <p>21 because you want better justification than that and</p> <p>22 you want something that's a more secure document if</p>

Conducted on December 20, 2016

<p>117</p> <p>1 you can get it.</p> <p>2 Q Isn't it true that the U.S. government</p> <p>3 vets -- let me rephrase. Isn't it true that when a</p> <p>4 person obtains immigration documents from the U.S.</p> <p>5 government, the U.S. government vets their</p> <p>6 background?</p> <p>7 MS. ODOM: Objection, foundation.</p> <p>8 MR. deBETTENCOURT:</p> <p>9 Q You may answer.</p> <p>10 A I assume so. I don't believe they issue</p> <p>11 documents just on somebody's say-so. I'm not</p> <p>12 intimately familiar with the level of backgrounding</p> <p>13 they do, but, you know (inaudible) --</p> <p>14 (At which time the court reporter requested</p> <p>15 clarification regarding the answer.)</p> <p>16 THE WITNESS: Mr. deBettencourt, why don't</p> <p>17 you try asking the question again and we'll start it</p> <p>18 all over and she can just dump that section.</p> <p>19 MR. deBETTENCOURT:</p> <p>20 Q Isn't it true that when someone applies for</p> <p>21 immigration documents from the U.S. government, the</p> <p>22 U.S. government vets their background?</p>	<p>119</p> <p>1 have an employer that's following the laws, it's</p> <p>2 going to flag somebody when you put them in the</p> <p>3 E-Verify system. And that doesn't mean you don't</p> <p>4 employ them. It just means you gotta do a further</p> <p>5 investigation to determine what's going on before</p> <p>6 you, you know, banish them to Siberia, as it were.</p> <p>7 But you want to work with documents that are</p> <p>8 independently verifiable by third parties to make</p> <p>9 sure that you know where somebody is coming from.</p> <p>10 And my general sense of it is if you've got somebody</p> <p>11 that's working for someone that is openly violating</p> <p>12 a federal statute, I'm not sure I can rely on any</p> <p>13 information that person is going to give me.</p> <p>14 MR. deBETTENCOURT:</p> <p>15 Q Mr. Caruso, are you basing your opinions in</p> <p>16 this report on your knowledge of the industry, in</p> <p>17 addition to your own experience?</p> <p>18 A Yeah. I mean, I've been part of the</p> <p>19 industry -- and as you saw my résumé, as opposing</p> <p>20 counsel saw my résumé, I've been fortunate to be</p> <p>21 elected to various positions in industry training</p> <p>22 associations over the years. Most recently I was</p>
<p>118</p> <p>1 MS. ODOM: And I'll restate the objection to</p> <p>2 foundation.</p> <p>3 A Based on what I know, I believe so, but I</p> <p>4 don't do those. I'm not intimate with what they do</p> <p>5 by way of background, but I know they do do</p> <p>6 background work.</p> <p>7 MR. deBETTENCOURT:</p> <p>8 Q Mr. Caruso, on page 1 of your report you</p> <p>9 state, any applicant who does not have legal status</p> <p>10 to work will be unable to obtain employment that can</p> <p>11 be verified as to duration and amount to permit</p> <p>12 underwriting.</p> <p>13 A Yes.</p> <p>14 Q Isn't it true that you base that statement</p> <p>15 on the fact that if a person does not have legal</p> <p>16 status to work, it'll be difficult for them to</p> <p>17 obtain -- difficult for them to obtain employment in</p> <p>18 the United States?</p> <p>19 MS. ODOM: Objection, form.</p> <p>20 A Well, we know that with the I-9</p> <p>21 requirement, and now the E-Verify requirement, you</p> <p>22 gotta have status to be able to work. And if you</p>	<p>120</p> <p>1 president of the Southeastern Affordable Housing</p> <p>2 Management Association for ten years. I sit on --</p> <p>3 I'm this year's Chairman of the Institute of Real</p> <p>4 Estate Management's Federal Advocacy Board. So I</p> <p>5 hang around with a lot of people on a regular basis,</p> <p>6 because now that I'm retired, I have much more time</p> <p>7 to spend on the Hill dealing with legislative</p> <p>8 matters. So this is not just an opinion developed</p> <p>9 working inside my own church as it were. I take a</p> <p>10 more ecumenical approach, and I have a lot of</p> <p>11 friends in the industry, too, and we all work</p> <p>12 together, because, you know, as they say, if you</p> <p>13 don't hang together, you will most assuredly hang</p> <p>14 separately. I believe that was Benjamin Franklin,</p> <p>15 wasn't it?</p> <p>16 Q I'm not sure. You probably know best.</p> <p>17 A I think that was Franklin when the</p> <p>18 Declaration of Independence was signed. And that</p> <p>19 is, Gentlemen, if we don't hang together, we will</p> <p>20 most assuredly hang separately.</p> <p>21 MR. deBETTENCOURT: All right, well, at this</p> <p>22 point I don't have any further questions.</p>

Conducted on December 20, 2016

<p>121</p> <p>1 MS. ODOM: So I do have a couple questions.</p> <p>2 FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFFS</p> <p>3 BY MS. ODOM:</p> <p>4 Q You said you base the opinions in your</p> <p>5 report on your knowledge of the industry. And I</p> <p>6 just want to clarify. There are some things about</p> <p>7 the industry that you can't or don't talk about with</p> <p>8 your friends, and one of those things --</p> <p>9 A That's true.</p> <p>10 Q One of those things is how to underwrite a</p> <p>11 lease?</p> <p>12 MR. deBETTENCOURT: Objection,</p> <p>13 mischaracterize.</p> <p>14 A One of those things -- the things I don't</p> <p>15 talk about with my friends most specifically is I</p> <p>16 don't talk about pricing, I don't talk about lease</p> <p>17 terms and conditions more generally. We do talk, in</p> <p>18 general terms, about how to underwrite a lease, but</p> <p>19 we don't talk in specific terms about it because</p> <p>20 you've got to be careful about what you do and don't</p> <p>21 discuss.</p> <p>22 MS. ODOM:</p>	<p>123</p> <p>1 an individual's legal status in the United States?</p> <p>2 A Since that was one of the hottest</p> <p>3 legislative topics when Representatives Gallegly and</p> <p>4 Hyde introduced the bill in the mid '90s, I probably</p> <p>5 spent 20 percent of my time for 18 months on those</p> <p>6 issues while that bill was in its gestation.</p> <p>7 Q But in recent years, in the context of</p> <p>8 having lunch with friends or having discussions with</p> <p>9 colleagues or associates in other residential</p> <p>10 management companies --</p> <p>11 (Simultaneous conversation.)</p> <p>12 A Something will occasionally --</p> <p>13 MR. deBETTENCOURT: Objection, form.</p> <p>14 A -- but I wouldn't regard it as substantive.</p> <p>15 (At which time the court reporter requested</p> <p>16 clarification regarding the answer.)</p> <p>17 A Something will occasionally pop up, but I</p> <p>18 wouldn't regard it as a substantive conversation.</p> <p>19 MS. ODOM:</p> <p>20 Q Meaning that you do not have substantive</p> <p>21 conversations about legal status in the United</p> <p>22 States being a prerequisite to tenancy at your</p>
<p>122</p> <p>1 Q And some of the specific terms that you</p> <p>2 don't discuss would be prerequisites to gaining a</p> <p>3 lease at a particular property?</p> <p>4 MR. deBETTENCOURT: Same objection.</p> <p>5 A Tenant selection plans are an internal</p> <p>6 document I would -- I and a number of my colleagues</p> <p>7 are uncomfortable sharing those around, at least in</p> <p>8 their whole form. Occasionally we'll have comments</p> <p>9 on, well, what are you doing on this issue and we'll</p> <p>10 kick it around a little bit, but, no, that's -- I</p> <p>11 regard that as a proprietary business document</p> <p>12 inside our company and I advise my staff they're not</p> <p>13 allowed to share it around. We do, however -- and I</p> <p>14 want to put this out on the table. If an applicant</p> <p>15 asks us for a copy of the tenant selection plan,</p> <p>16 they are promptly provided one, because they are</p> <p>17 legally entitled to see the document and they're</p> <p>18 entitled to take it away. I just don't share it</p> <p>19 around when I'm having lunch with people.</p> <p>20 MS. ODOM:</p> <p>21 Q Do you share the details of your</p> <p>22 properties' tenant selection plans as it relates to</p>	<p>124</p> <p>1 properties?</p> <p>2 MR. deBETTENCOURT: Objection, form,</p> <p>3 mischaracterize.</p> <p>4 A I've had lots of conversations over the</p> <p>5 years about how we're going to lobby the government</p> <p>6 to get regulations that we can live with. I can't</p> <p>7 remember having a conversation with anybody in the</p> <p>8 last couple of years on how I deal with an</p> <p>9 individual tenant.</p> <p>10 MS. ODOM:</p> <p>11 Q Or generally about what a particular</p> <p>12 property complex does by way of a policy on</p> <p>13 documented immigrants or undocumented immigrants?</p> <p>14 MR. deBETTENCOURT: Objection, form.</p> <p>15 A That would generally be fair.</p> <p>16 MS. ODOM:</p> <p>17 Q You testified a few minutes ago in response</p> <p>18 to Mr. deBettencourt's question that in the</p> <p>19 conventional, non-assisted, non-HUD space it is</p> <p>20 reasonable to have a policy that requires a</p> <p>21 prospective tenant to be legally present in the</p> <p>22 United States? Do you recall that?</p>

Conducted on December 20, 2016

<p>125</p> <p>1 MR. deBETTENCOURT: Objection,</p> <p>2 mischaracterize.</p> <p>3 A I do.</p> <p>4 MS. ODOM:</p> <p>5 Q Why do you think that is reasonable?</p> <p>6 A As I indicated in the materials that I gave</p> <p>7 Mr. deBettencourt, that are now part of this</p> <p>8 pleadings, if they can't legally work in this</p> <p>9 country, how are they going to earn the money to pay</p> <p>10 their rent? You are, in most cases, granting</p> <p>11 someone credit to the tune of somewhere between</p> <p>12 15,000 and 40,000 a year, depending on the rent and</p> <p>13 where the location might be, at least with regard to</p> <p>14 my portfolio. And while I don't do mobile home</p> <p>15 parks, I do enough landlord-tenant law to know that</p> <p>16 in the event where you have that complication and</p> <p>17 you have what's effectively a ground lease, and you</p> <p>18 have to get back possession of it, that's going to</p> <p>19 be a long fight in the courts and you could lose a</p> <p>20 lot of money. So the short answer is I want to make</p> <p>21 sure that I'm doing the right job for my owners, who</p> <p>22 are underwriting, carefully enough, including that</p>	<p>127</p> <p>1 thinks that's a -- you know, that knowingly housing</p> <p>2 illegals is a good business plan. It's just not.</p> <p>3 Q And since you haven't heard anybody say</p> <p>4 anything about the fact that that would be an</p> <p>5 unreasonable thing, have you heard anything one way</p> <p>6 or the other when you're discussing this with your</p> <p>7 colleagues?</p> <p>8 MR. deBETTENCOURT: Objection, form.</p> <p>9 A I'm going to answer this in an elliptic</p> <p>10 way. We've just gone through an election season</p> <p>11 that's been very divisive and immigration has been</p> <p>12 on the front burner for most of this period of time.</p> <p>13 And I'm not taking a position either way. We have a</p> <p>14 president. He was elected. I'm not talking about</p> <p>15 that. But immigration has popped up again as a big</p> <p>16 issue this year and I've had some conversations with</p> <p>17 folks who say, God, it would be nice if we got this</p> <p>18 over with and got to the point where we have some</p> <p>19 standard, we weren't constantly fighting about it.</p> <p>20 It's just -- it's been difficult for everybody.</p> <p>21 MS. ODOM:</p> <p>22 Q Difficult for property managers?</p>
<p>126</p> <p>1 they can legally work here, that the likelihood is</p> <p>2 they'll pay their lease and they'll take their lease</p> <p>3 to term. That's what we're after is we offer</p> <p>4 accommodation, in exchange for that they give us</p> <p>5 money and they have the right to that space for a</p> <p>6 fixed period of time, be it an apartment, a mobile</p> <p>7 home lot, a commercial building, whatever.</p> <p>8 Q I believe you also testified you didn't</p> <p>9 think that was an unusual policy? What is that --</p> <p>10 A I don't think it's -- I don't think it's</p> <p>11 unusual.</p> <p>12 MR. deBETTENCOURT: Objection, form.</p> <p>13 MS. ODOM:</p> <p>14 Q What is that based on? What makes you say</p> <p>15 that it's not unusual?</p> <p>16 A In the sitting, having lunch, and</p> <p>17 walking-around conversations with my colleagues,</p> <p>18 when tenant selection plans come up and there's a</p> <p>19 question about it, I haven't heard anybody suggest</p> <p>20 that having a citizenship -- you know, having --</p> <p>21 being here illegally -- citizenship is the wrong</p> <p>22 term. Being here illegally, I don't know if anybody</p>	<p>128</p> <p>1 A Yeah.</p> <p>2 Q Because they're on the hook to verify legal</p> <p>3 status in the United States?</p> <p>4 MR. deBETTENCOURT: Objection, form.</p> <p>5 A We're between the proverbial rock and the</p> <p>6 hard place. The rock is legal status to work,</p> <p>7 underwriting, and what have you, and the hard place</p> <p>8 is Fair Housing and Equal Opportunity. And you</p> <p>9 don't want to find yourself in those two places.</p> <p>10 And we have consistently, as an industry, found</p> <p>11 ourselves in that position for the last 18 months to</p> <p>12 2 years, as in a adjunct to this greater policy</p> <p>13 debate about what to do about the roughly 12 million</p> <p>14 people that are in this country that don't have a</p> <p>15 legal right to be here.</p> <p>16 MS. ODOM:</p> <p>17 Q So in the absence of some federal</p> <p>18 requirement requiring a residential property company</p> <p>19 to verify legal status in the United States, it's</p> <p>20 easier if that company doesn't verify legal status?</p> <p>21 Would that be a fair statement?</p> <p>22 MR. deBETTENCOURT: Objection, form.</p>

Conducted on December 20, 2016

129

1 A I'm not sure I would concur with that
2 formulation of it, no.

3 MS. ODOM:

4 Q What about that formulation of it do you
5 not concur with?

6 A Well, we touched on this, I think, half a
7 dozen times, and I've tried to be consistent about
8 it, but what it boils down to is when we're leasing
9 stuff, the rent has to get paid. And if they can't
10 be legally employed, how do you assure yourself that
11 the rent is going to get paid.

12 MS. ODOM: All right, I think that's it for
13 me, Mr. Caruso. Thanks for your time.

14 THE WITNESS: Well, on that note --

15 MR. deBETTENCOURT: That's it for me, too,
16 Mr. Caruso. Have a good vacation.

17 (Off the record at 3:35 p.m.)

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130

1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY REPUBLIC

2
3 I, LISA KIRK, the officer before whom the
4 foregoing deposition was taken, do hereby certify
5 that the foregoing transcript is a true and correct
6 record of the testimony given; that said testimony
7 was taken by me stenographically and thereafter
8 reduced to typewriting under my direction; that
9 reading and signing was not requested; and that I am
10 neither counsel for, related to, nor employed by any
11 of the parties to this case and have no interest,
12 financial or otherwise, in its outcome.

13 IN WITNESS WHEREOF, I have hereunto set my
14 hand and affixed my notarial seal this 4th day of
15 January, 2017.

16 My commission expires:

17 July 31, 2018

18

19  _____

20 NOTARY PUBLIC IN AND FOR

21 THE COMMONWEALTH OF VIRGINIA

22 Notary Registration Number - 7057881

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP
Conducted on December 20, 2016

34

A			
a-plus	114:6, 115:11,	acts	advise
52:6	121:6, 121:7,	73:6	122:12
ability	121:15, 121:16,	actually	advocacy
17:11	121:18, 121:19,	12:18, 54:12,	120:4
able	121:20, 123:21,	65:22, 88:17,	affirmed
23:14, 23:15,	124:5, 124:11,	99:22, 114:11	6:18
24:6, 33:8,	126:19, 127:4,	add	affixed
34:16, 49:15,	127:14, 127:19,	66:20	130:14
49:20, 51:12,	128:13, 129:4,	addition	affordable
53:5, 62:3,	129:7	25:14, 119:17	15:5, 15:21,
63:8, 63:14,	absence	addresses	16:4, 17:14,
65:1, 72:17,	31:15, 128:17	74:17	18:1, 18:13,
78:1, 79:4,	absolutely	adjunct	18:20, 23:5,
86:11, 95:12,	60:5, 61:15	128:12	120:1
98:19, 99:10,	abstract	administrations	after
109:16, 111:19,	33:17	16:3	14:17, 22:15,
118:22	abutting	administrative	36:17, 69:4,
able-bodied	38:12	67:13	82:11, 126:3
86:9	accept	admission	again
about	55:12, 57:9,	92:16, 92:18	22:12, 43:20,
9:5, 9:11,	58:8	admissions	49:4, 52:19,
14:17, 19:10,	accepted	12:10, 12:15,	64:11, 71:22,
19:11, 20:7,	49:12	31:10	78:20, 87:6,
20:9, 23:9,	accepting	admit	87:22, 88:1,
23:10, 26:19,	99:20	108:8, 110:3	89:6, 92:20,
28:17, 29:4,	access	admits	99:8, 110:3,
29:5, 29:11,	101:16	111:2	113:21, 117:17,
30:10, 33:17,	accommodation	adopt	127:15
38:4, 38:15,	126:4	23:6, 28:20,	against
38:18, 41:12,	account	91:5	17:7, 17:9,
42:14, 47:2,	59:16	adopted	27:9, 41:2,
54:8, 58:18,	accurate	23:21, 92:17,	61:22, 80:15,
60:16, 65:7,	8:16	115:16	89:7, 92:17
67:16, 68:3,	accuse	adopting	age
71:10, 79:5,	113:14	18:22	81:12, 82:8,
82:12, 82:16,	accused	adult	87:18
82:18, 82:19,	91:2, 91:3	50:3, 81:3,	agencies
83:6, 83:21,	acronyms	81:11, 84:21,	11:12, 27:22,
84:12, 85:6,	97:14	88:1, 88:3,	106:6, 108:1
89:4, 92:20,	across	88:4, 88:6,	agency
92:21, 95:12,	12:8, 57:7,	88:15, 88:16,	29:17, 30:7,
95:17, 96:18,	62:16, 91:6	90:17	42:1, 46:8,
96:21, 96:22,	act	adults	56:13, 100:11,
97:18, 103:14,	67:13, 97:1,	92:12, 92:13	100:12, 100:13
106:9, 108:18,	97:3	advisable	agenda
110:14, 112:15,	activities	96:12	22:13
	27:8	advisably	ago
	actors	37:11	8:9, 23:9,
	104:12, 105:19		

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

35

47:20, 70:5, 80:2, 116:18, 124:17 agree 29:1, 29:6 agreed 6:13 agreement 46:5, 46:10 agrees 6:10 agricultural 13:22 agriculture 16:2 ahead 6:5, 6:14, 11:4, 21:11, 21:14, 24:14, 27:3, 32:18, 45:11, 53:2, 60:1, 61:14, 71:3, 88:21, 91:12, 94:6 aid 3:11 aimco 39:22, 44:4, 45:19 aimed 18:4 al 1:5, 1:9 alabama 14:18 alco 15:1 alexandria 1:3 algorithm 79:8 algorithms 79:11, 80:6 alien 50:5 alive 16:13 all 6:4, 7:1, 7:10,	7:17, 7:20, 8:18, 9:16, 13:1, 16:4, 18:3, 18:18, 20:13, 21:22, 24:2, 24:7, 25:17, 26:17, 27:16, 32:13, 34:14, 34:16, 38:1, 41:20, 43:14, 46:12, 48:21, 51:18, 52:8, 53:8, 54:18, 58:14, 61:22, 70:10, 70:12, 73:11, 74:18, 77:10, 78:20, 79:9, 80:5, 82:7, 89:16, 89:22, 90:2, 90:7, 92:12, 92:13, 96:2, 97:13, 100:14, 102:7, 103:8, 103:22, 104:11, 106:6, 114:7, 115:12, 117:18, 120:11, 120:21, 129:12 allow 54:14 allowed 122:13 allows 107:13 almost 60:5, 86:17 alongside 87:16 already 7:21, 37:16, 52:19 also 9:20, 13:22, 15:14, 18:16, 23:17, 27:13, 45:4, 55:18, 58:1, 64:9,	66:6, 74:10, 76:4, 78:14, 87:12, 92:14, 98:4, 98:10, 101:13, 107:8, 113:5, 126:8 alternate 61:19, 61:21 alternative 71:14 always 47:14, 47:19, 92:6, 97:10, 115:16 american 14:13 among 10:9, 98:3, 102:2, 104:13, 107:22, 113:3, 113:4, 116:15 amount 65:21, 118:11 amounts 71:16, 72:5, 72:18 annual 11:11, 19:2, 67:18, 93:3 another 41:3, 53:19, 80:19, 88:4, 88:6, 105:6 answer 8:7, 8:8, 20:19, 21:14, 21:15, 24:14, 27:3, 32:8, 32:9, 33:6, 33:8, 33:10, 35:9, 35:13, 35:16, 35:19, 36:5, 43:2, 43:16, 45:11, 46:20, 46:21, 47:9, 53:5, 53:6, 53:7, 58:12, 59:4,	60:1, 62:15, 63:3, 66:4, 79:9, 82:4, 82:13, 83:19, 86:2, 89:2, 89:5, 90:5, 90:14, 94:9, 94:10, 94:11, 94:13, 95:3, 95:8, 98:19, 98:21, 99:9, 99:11, 102:16, 103:6, 103:10, 104:22, 105:4, 105:15, 107:12, 107:19, 110:21, 111:17, 117:9, 117:15, 123:16, 125:20, 127:9 answered 24:12, 35:12, 62:17, 103:4 antitrust 82:11, 82:19 any 7:11, 8:14, 9:5, 11:21, 12:1, 16:7, 18:6, 19:13, 21:6, 25:2, 26:21, 28:4, 28:5, 33:1, 33:13, 33:20, 35:9, 35:16, 36:6, 38:5, 38:14, 39:15, 41:22, 42:1, 46:18, 46:22, 54:21, 56:5, 65:6, 65:18, 67:22, 69:6, 70:21, 77:14, 81:22, 83:11, 88:10, 94:8, 98:22, 99:14, 99:15, 100:11, 102:10, 102:13, 103:19, 104:4,
--	--	--	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

36

105:5, 105:13, 105:22, 106:9, 106:11, 106:12, 106:18, 106:22, 107:19, 108:22, 110:5, 110:14, 111:7, 111:8, 111:10, 112:11, 112:20, 118:9, 119:12, 120:22, 130:10 anybody 55:3, 103:11, 116:4, 124:7, 126:19, 126:22, 127:3 anymore 7:8, 11:6, 55:18, 75:22, 80:10, 80:17 anyone 64:20, 83:12 anything 10:18, 32:12, 38:16, 51:22, 56:21, 66:2, 79:5, 82:19, 95:12, 108:17, 108:18, 114:9, 127:4, 127:5 apart 20:9, 86:16, 87:22 apartment 10:19, 37:13, 126:6 apartments 21:8, 57:16, 64:14 applicant 63:8, 65:18, 71:15, 73:16, 73:18, 73:21, 81:11, 91:18, 111:15, 116:12, 118:9, 122:14 applicant's 78:2	applicants 31:7, 86:8 application 31:11, 39:6, 51:1, 55:13, 56:3, 57:10, 63:7, 69:11, 73:10, 88:16, 111:14, 115:3 applications 77:4, 107:4 applies 60:7, 85:17, 87:16, 98:21, 101:5, 117:20 apply 84:3, 115:6 applying 28:4 approach 44:19, 44:20, 120:10 appropriate 55:22, 57:12, 57:13, 94:3, 110:7 appropriately 25:14 appropriations 19:2 approve 63:2 april 9:17 area 18:5, 54:17 aren't 41:13 arena 67:1 arisen 38:6 around 13:3, 24:3, 28:13, 52:18, 73:4, 120:5, 122:7, 122:10, 122:13, 122:19	arrangement 46:7 arrest 37:12, 108:1, 108:2 arrested 37:16 art 48:9 articles 65:7 ascertain 25:16, 70:19 aside 39:13, 39:15, 64:8, 110:13 asked 7:5, 24:11, 33:16, 35:9, 35:11, 35:16, 36:6, 94:1, 95:3, 103:3 asking 24:3, 32:11, 32:13, 35:14, 36:3, 44:16, 72:7, 104:1, 116:10, 117:17 asks 122:15 aspect 26:2 assaulting 104:17 assess 69:7, 84:7 assessment 72:12 asset 9:11, 9:20, 9:22 assets 13:16, 13:18, 47:11, 48:10, 71:19, 72:4, 102:19 assistance 19:2, 23:21,	40:12, 40:17, 41:14, 44:6, 45:6, 45:12, 45:16, 46:18, 48:5, 48:7, 68:11, 85:14, 97:22, 99:14 assistant 69:3, 107:12 assisted 15:10, 15:14, 19:11, 19:12, 19:22, 22:17, 23:5, 23:8, 67:1, 67:10, 85:4, 91:4, 91:13, 91:15, 91:16, 115:15 associates 123:9 association 15:6, 15:21, 16:6, 120:2 associations 119:22 assume 46:21, 87:21, 117:10 assuming 48:15 assumption 47:4 assurance 52:14, 52:16 assure 58:3, 129:10 assuredly 120:13, 120:20 attached 5:10, 6:2, 21:4 attachés 64:9 attending 64:14 attention 68:21 attorney 69:3
---	---	--	--

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

37

attorneys 37:11, 107:13	118:5, 118:6	10:14, 22:8,	86:16, 92:6,
attribute 111:1	backgrounding 117:12	23:1, 25:19,	92:11, 96:18,
august 13:9	backgrounds 108:2	27:6, 27:8,	99:6, 101:21,
authority 40:18	backup 66:17	29:18, 37:18,	104:8, 106:7,
automated 80:9	bad 104:12, 105:17,	40:13, 40:16,	107:7, 109:18,
automatically 77:4	banish 119:6	45:1, 45:19,	119:18, 119:20,
automobiles 109:7	bank 76:2, 76:4	49:4, 51:18,	127:11, 127:20
availability 113:11	banking 76:4	57:14, 57:21,	before 2:19, 7:2,
available 32:14, 72:4,	bar 82:21	58:2, 60:6,	7:19, 7:21, 8:6,
72:18	base 64:10, 118:14,	61:20, 63:19,	12:13, 47:13,
avoid 82:14, 83:4	121:4	67:6, 68:9,	52:20, 65:14,
avoided 83:2	based 56:22, 67:13,	70:20, 74:2,	71:9, 92:22,
aware 8:15, 8:17,	80:8, 96:7,	74:22, 75:3,	100:19, 119:5,
36:9, 49:10,	118:3, 126:14	76:10, 77:3,	130:3
56:16, 60:19,	basic 96:2, 106:21	78:5, 78:19,	begin 93:14
74:12, 81:22,	basically 10:6, 19:20	79:9, 82:7,	beginning 44:11
111:5	basing 119:15	82:15, 86:16,	behalf 3:2, 4:2
away 122:18	basis 45:15, 49:14,	87:4, 91:20,	behavior 82:20, 105:17,
B	57:17, 65:17,	92:15, 93:4,	106:8, 107:10
back 8:1, 8:22,	67:19, 81:19,	93:12, 93:14,	being 6:10, 6:18,
21:2, 44:2,	94:11, 95:7,	96:12, 97:17,	8:2, 17:9,
47:21, 59:6,	107:2, 120:5	103:7, 104:14,	22:12, 22:13,
71:6, 76:3,	bear 87:11	107:6, 109:2,	29:19, 31:6,
76:8, 76:10,	bearing 76:22	111:7, 112:8,	49:16, 50:1,
78:21, 79:18,	beating 104:1	113:13, 114:4,	60:9, 60:20,
79:22, 95:2,	became 14:7, 37:13,	115:17, 116:21,	84:15, 91:19,
110:1, 125:18	65:15, 96:21,	120:6, 120:12,	123:22, 126:21,
back-office 76:5	116:3	121:19, 122:16,	126:22
background 63:11, 76:13,	because 8:4, 9:15,	128:2	believe 26:10, 40:21,
76:21, 112:9,		become 13:7, 27:15,	95:22, 96:4,
117:6, 117:22,		36:8, 75:2	104:5, 117:10,
		been 7:2, 7:7, 7:8,	118:3, 120:14,
		7:20, 13:10,	126:8
		20:10, 20:11,	below 18:4
		21:8, 21:10,	beneath 48:2
		32:20, 34:19,	beneficiaries 13:15
		37:14, 37:16,	benjamin 120:14
		38:20, 41:5,	
		47:1, 47:19,	
		49:21, 52:18,	
		59:16, 63:17,	
		64:5, 69:11,	
		72:17, 76:22,	
		77:1, 78:19,	
		80:9, 84:11,	
		84:12, 84:16,	

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP
Conducted on December 20, 2016

38

<p>besides 33:13 best 8:4, 8:16, 38:22, 120:16 better 17:11, 27:5, 49:18, 116:21 betting 41:11 between 13:3, 15:11, 33:5, 42:5, 60:16, 74:14, 95:7, 105:18, 125:11, 128:5 beyond 7:10, 76:19 bidding 12:11 big 9:19, 61:8, 61:11, 75:17, 79:10, 80:6, 82:8, 127:15 bill 97:11, 97:16, 97:17, 98:18, 123:4, 123:6 bills 16:15, 22:10, 22:11, 65:14 birth 74:2, 75:2, 78:14, 113:8 bit 8:3, 17:18, 27:6, 77:5, 104:4, 112:7, 122:10 black 79:12, 80:10, 80:11, 109:4 blank 53:18 blend 74:18 blessed 104:9</p>	<p>block 99:17 board 12:8, 91:6, 120:4 boils 129:8 book 12:20 booking 113:9 books 73:8 bookshelf 20:7 borrowed 29:16 both 19:20, 23:5, 28:15, 29:21, 88:19, 90:20, 107:4, 115:15 bottom 104:15 box 61:8, 61:11, 79:12, 80:10, 80:11 break 52:2, 58:15, 71:4, 71:9, 94:21, 114:12, 114:16 breaking 66:1 brief 71:9 broad 16:3, 20:1, 55:19, 102:12, 114:6, 116:5 broader 12:18 brought 60:20, 65:13 budget 10:5 budgeting 11:11, 101:22</p>	<p>budgets 101:16 builder 14:21 building 15:13, 126:7 buildings 75:22 built 77:2 bunch 113:5 burner 127:12 bush 52:18 business 14:8, 18:20, 20:10, 23:20, 31:22, 40:17, 41:14, 55:2, 79:17, 82:12, 83:13, 90:20, 91:14, 101:12, 122:11, 127:2 business; 31:16 buying 103:9 by: 1:22</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>calculation 9:10 call 10:4, 23:4, 28:14, 35:17, 71:5 called 20:6, 41:14, 44:5, 46:5, 48:9, 80:2, 81:6, 97:6, 97:11 calls 32:7, 33:4, 53:4, 94:8, 95:6</p>	<p>came 25:11, 82:11, 93:16, 95:16, 100:16 camera 9:4, 34:10 can't 8:15, 24:19, 25:18, 27:8, 28:16, 34:11, 34:13, 36:16, 36:22, 38:1, 43:2, 46:20, 58:4, 63:22, 65:11, 67:22, 68:6, 79:9, 80:17, 97:18, 99:9, 101:8, 102:16, 109:15, 112:9, 113:22, 114:6, 121:7, 124:6, 125:8, 129:9 capacity 21:22, 107:1 capital 11:8, 14:13 caption 34:9 card 37:22, 55:17, 56:2, 70:8, 70:19, 80:4 cards 55:17, 55:19 care 22:9, 72:15 career 14:2, 21:17, 22:8, 41:11, 67:7, 83:8, 101:10, 102:9 career-changing 102:10 career; 96:8 careers 82:13, 96:17</p>
--	---	--	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP
Conducted on December 20, 2016

39

<p>careful 22:4, 60:12, 60:16, 89:4, 96:18, 111:2, 113:12, 113:16, 115:10, 121:20 carefully 21:18, 85:3, 86:16, 86:21, 125:22 carry 73:4 caruso 1:15, 2:1, 5:2, 5:11, 6:1, 6:4, 6:10, 6:17, 7:1, 33:8, 33:10, 34:17, 36:1, 51:11, 52:21, 83:16, 88:20, 94:4, 95:14, 103:13, 104:7, 105:22, 114:7, 114:10, 114:15, 114:20, 118:8, 119:15, 129:13, 129:16 caruso's 34:20 case 7:15, 7:16, 22:20, 23:18, 25:7, 33:21, 34:2, 35:4, 36:6, 37:5, 37:9, 49:16, 54:11, 59:2, 63:13, 69:4, 79:21, 84:15, 88:16, 89:15, 91:9, 93:19, 94:17, 108:11, 108:12, 130:11 cases 12:3, 14:22, 19:20, 37:1, 68:14, 71:18, 81:5, 108:3,</p>	<p>108:6, 113:8, 116:13, 125:10 cause 38:5 cautious 90:16, 115:19 cbe 99:18 center 3:11 certain 82:8 certainly 16:10 certainty 24:20 certificate 130:1 certifications 41:6 certify 130:4 cfr 20:6 chairman 97:12, 120:3 challenge 84:14 challenged 49:16, 49:21, 50:2 change 12:4, 59:5, 92:7, 92:12 changed 69:19, 93:4 changes 116:3 chapter 20:6 charge 12:5 check 20:13, 20:20, 45:14, 45:20, 46:19, 76:21, 79:15, 80:14, 97:9, 97:22,</p>	<p>103:16 checking 56:22, 66:17, 74:20 checks 63:11, 76:13, 80:1, 80:16, 103:8 chicago 14:8, 14:10, 15:14 chief 12:22 child 87:17, 87:18, 87:20, 88:1, 88:3 chip 70:16 chosen 91:5 church 3:14, 120:9 circumstance 31:3, 37:6, 92:15 cis 59:12 citizen 39:4, 50:4, 71:22 citizens 64:13, 68:3, 106:3 citizenship 16:14, 126:20, 126:21 civil 1:12, 41:2, 41:16 claim 91:16 clarification 20:19, 43:16, 105:15, 117:15, 123:16 clarify 121:6</p>	<p>clear 25:12, 26:4, 32:11, 33:19, 35:3, 35:7, 102:7 clearly 39:11 click 51:19 clickety 51:19 client 76:9 clients 9:19 close 70:8 coast 14:12 code 20:5 coincidentally 108:5 colleague 103:16 colleagues 23:20, 39:17, 39:19, 76:1, 82:6, 101:14, 101:18, 101:22, 106:20, 111:9, 122:6, 123:9, 126:17, 127:7 collect 81:20, 89:7, 108:16 colloquially 97:6 collusion 68:8 collusive 82:20 columbia 37:12, 107:9 combatting 107:15 come 13:17, 21:2,</p>
---	---	---	--

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

40

22:6, 31:8, 31:12, 36:8, 49:4, 53:8, 57:21, 68:21, 75:1, 126:18 comes 19:17, 41:9, 83:7, 83:9, 93:3, 104:22, 112:7 coming 13:4, 86:19, 119:9 comments 122:8 commercial 21:18, 42:17, 74:3, 74:12, 126:7 commission 130:16 committee 97:12 commonwealth 2:23, 130:21 communications 32:7, 33:5, 53:4, 53:6, 94:8, 95:7, 95:17 communities 10:19, 107:21 community 42:15, 42:21, 44:4, 45:16, 45:18, 99:16, 103:21, 115:22 companies 28:18, 41:13, 56:15, 57:7, 82:1, 82:9, 96:14, 101:9, 115:14, 123:10 company 14:18, 23:4, 28:14, 52:11, 75:14, 77:15, 77:20, 79:8,	102:4, 102:11, 103:9, 122:12, 128:18, 128:20 comparatively 67:21 compare 78:20 compensated 13:13 competitors 76:17 complaint 31:5, 31:8, 31:15, 49:3, 93:19, 93:22 complaints 38:14, 107:17 complete 50:10, 50:14, 62:3 completely 53:14 complex 46:12, 47:22, 48:17, 48:18, 54:18, 124:12 complexes 14:1, 85:13 complexly 47:13 compliance 99:20 complication 125:16 comply 20:14, 21:1, 40:13, 43:10, 46:12, 85:8 complying 40:19, 100:20 components 12:19 compositions 85:7 compound 75:10 concern 30:22, 47:5	concerned 17:11, 29:4, 29:5, 29:11, 29:16, 30:8, 31:4, 38:19 concur 129:1, 129:5 conditions 86:13, 121:17 condominiums 21:16 confidential 102:8 confidentiality 115:20 confines 38:6 confirm 36:4 confirmation 57:2 congress 16:2, 22:9, 22:16, 25:12, 26:3, 116:3 congressional 26:18, 47:15 connects 98:12 consequence 37:18 consider 39:10, 39:11, 39:18, 39:19, 39:21, 40:1, 91:12 consideration 104:20 considerations 104:20 considered 102:8 consist 10:17, 56:19 consistency 115:17 consistent 31:10, 44:18,	44:20, 47:16, 49:6, 90:20, 92:17, 115:11, 116:8, 129:7 consistently 23:2, 23:7, 47:18, 73:17, 128:10 constantly 127:19 contact 36:8 contained 93:21 containing 61:11 context 17:21, 47:18, 111:4, 115:2, 115:7, 123:7 contexts 64:21 continue 73:9, 104:6 continuously 13:4 contours 91:8 contracting 12:12 contractor 60:9, 60:13, 60:21 contractors 11:10 contracts 41:7 contractual 46:6, 46:10 contribution 87:5 control 17:10, 83:10 conundrum 72:20 convenient 103:7 conventional 23:5, 85:3,
---	---	--	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

41

91:4, 115:1, 115:6, 124:19 conversation 69:2, 105:10, 123:11, 123:18, 124:7 conversations 32:20, 82:6, 82:14, 83:21, 106:19, 111:8, 123:21, 124:4, 126:17, 127:16 convict 113:6 copy 8:20, 122:15 corelogic 76:18 corollary 109:2 corporate 7:18 corporation 9:19, 10:11, 14:14, 100:7 correct 27:18, 30:15, 46:2, 46:15, 96:5, 96:10, 130:5 correctly 40:18 correlation 109:8 cost 20:21, 45:18 costs 19:3, 45:15, 45:21 could 49:17, 49:18, 51:7, 54:18, 55:14, 74:9, 80:3, 87:11, 125:19 counsel 6:21, 32:1, 32:7, 32:12,	33:5, 53:4, 53:7, 53:9, 90:15, 94:8, 95:7, 95:17, 114:18, 119:20, 121:2, 130:10 counsel's 35:8, 35:15, 36:5, 36:7, 114:22 counselor 103:22 country 18:14, 25:13, 28:1, 50:3, 50:6, 59:9, 64:12, 125:9, 128:14 county 114:2, 114:4 couple 37:1, 68:1, 76:22, 85:16, 114:11, 114:16, 114:21, 115:8, 121:1, 124:8 course 18:19 court 1:1, 2:21, 6:5, 6:14, 8:4, 8:11, 20:18, 43:15, 58:5, 89:13, 105:14, 108:4, 117:14, 123:15 courtroom 6:8 courts 125:19 cover 20:21, 45:15, 45:21, 71:15, 87:11 covered 18:2 covers 55:19 crack 49:19	crazy 51:8, 100:18 create 115:18 creating 12:5, 33:14 creation 12:1 credit 74:15, 74:16, 79:15, 80:1, 80:14, 80:16, 125:11 crime 106:1, 107:4, 107:15 crimes 106:5 criminal 74:20, 75:9, 76:21, 106:8, 107:10, 109:11 criteria 91:19 current 38:20, 39:2, 62:9 currently 76:12 customary 57:6 customer 79:11 customize 77:9 customized 77:11 customs 70:9 cut 89:20, 90:21, 92:3 cuts 29:17	dangerous 103:20, 104:5 data 78:22, 95:15, 106:17, 106:18, 107:8, 107:18, 107:22, 108:17, 108:22, 111:7, 112:8, 113:5, 113:7, 113:8, 113:9, 113:13 database 75:12, 78:7 databases 74:3 date 74:2, 78:14 dates 75:2 day 130:14 day-to-day 10:20, 11:5, 11:20, 61:21 days 13:2, 20:2, 21:3, 66:16, 79:9, 79:19, 80:5 de 1:5 dead 115:10 deal 19:19, 19:22, 97:13, 99:13, 124:8 dealing 54:16, 68:14, 71:18, 71:21, 104:15, 120:7 deals 43:5, 47:12, 100:15 debate 128:13 debettencourt 4:3, 5:4, 6:9,
--	--	--	--

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

42

114:9, 114:21, 117:16, 125:7 debettencourt's 124:18 december 1:17 decent 116:14, 116:16 decision 100:17 decisions 107:7 declaration 120:18 declaring 87:4 decline 100:1 deemed 82:19 deep 19:1, 23:21, 40:12, 40:16, 41:14, 44:6, 45:6, 45:12, 45:16, 46:18, 48:5, 48:7, 63:17, 68:10, 97:22 deeply 17:11 deeply-assisted 19:4 defendants 1:10, 51:4, 52:10, 114:18 defendants' 52:9 defendants: 4:2 definition 17:17, 25:20, 60:13 deliberately 68:11 demonstrate 62:20, 72:17 demonstrating 108:7	department 16:1, 16:2, 57:18, 57:22, 67:5, 82:11 depending 17:16, 50:11, 74:11, 112:16, 112:17, 125:12 depends 54:11, 75:11, 75:12 deposed 7:2, 7:9, 7:20 deposition 1:15, 2:1, 5:11, 7:6, 7:10, 130:4 depositions 7:11 describe 49:15, 49:17, 49:20 described 48:17 describing 99:7 design 75:12 designators 77:2 desperate 116:20 details 88:13, 122:21 determine 25:6, 61:17, 73:12, 74:6, 111:19, 112:1, 119:5 deterred 16:18 developed 68:7, 120:8 development 99:16 difference 60:19 different 14:1, 19:13,	23:12, 48:2, 48:6, 54:15, 57:20, 70:3, 77:5, 89:15, 93:4, 98:11, 104:4, 108:13, 112:18 differentiated 104:13 differentiation 42:19, 60:15 differently 44:12, 44:17, 113:22 difficult 8:3, 14:4, 25:21, 69:19, 111:11, 112:8, 118:16, 118:17, 127:20, 127:22 digits 110:20, 110:21 diligence 56:5 diplomacy 64:21 diplomat 58:5 diplomatic 58:2 diplomats 57:19, 64:5, 64:8, 64:18 direction; 130:8 directly 21:20, 70:7 director 15:4, 15:20 disability 86:11 disabled 86:10, 86:18, 87:1 disappearing 110:18 discover 67:9	discuss 82:22, 95:15, 96:13, 121:21, 122:2 discussed 8:9, 96:1, 101:22 discusses 111:13 discussing 44:3, 82:12, 87:7, 88:14, 127:6 discussion 102:10 discussions 84:12, 96:17, 123:8 disparate 91:3, 91:16 disparately 31:6 distributing 108:10, 108:11, 108:12, 109:6 district 1:1, 1:2, 37:11, 40:3, 107:9, 108:11, 108:14 disturbance 38:5 diversified 14:13 division 1:3, 18:16, 23:3 divisive 127:11 divorce 27:7 document 34:1, 34:3, 35:4, 46:4, 50:12, 54:13, 69:7, 69:14, 69:18, 116:22, 122:6, 122:11,
--	--	---	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

43

122:17 documentation 56:10, 56:11, 56:12, 56:15, 56:17, 64:12, 69:12, 116:17 documented 103:21, 105:7, 106:3, 108:20, 124:13 documents 17:7, 17:12, 33:1, 33:20, 35:9, 35:17, 36:6, 37:14, 37:19, 37:21, 41:7, 43:20, 50:8, 50:11, 50:22, 55:9, 55:19, 55:20, 68:17, 68:22, 69:10, 70:13, 70:16, 84:2, 100:1, 100:2, 116:11, 116:15, 117:4, 117:11, 117:21, 119:7 doing 7:7, 15:7, 23:5, 23:21, 27:6, 47:17, 48:11, 48:12, 66:19, 67:8, 76:1, 79:17, 100:15, 122:9, 125:21 doj 69:8 done 21:15, 21:17, 33:18, 40:10, 53:9, 53:14, 80:5, 102:5, 103:14 doors 10:21 down 8:5, 15:9,	19:8, 23:13, 27:5, 31:13, 42:13, 44:2, 51:7, 88:2, 98:18, 104:22, 110:20, 110:21, 112:7, 129:8 downside 51:16, 67:3 dozen 129:7 draft 12:15 drafting 13:1 drafts 12:3 drills 61:22 drive 14:11, 100:18 driven 79:10 driver's 70:2, 70:3 drives 55:9 driving 70:4 drug 38:10 drugs 104:15, 107:15, 108:10, 109:6, 109:22 due 67:11, 103:22 duly 6:18 dump 117:18 duration 65:21, 66:7, 86:3, 118:11 during 14:15 dwoskin 52:10, 98:22,	102:14 <hr/> E <hr/> e-verify 59:8, 59:11, 59:12, 59:14, 59:16, 59:20, 60:4, 60:22, 61:15, 62:7, 118:21, 119:3 each 8:2, 22:18, 40:6, 70:9, 81:12 earlier 24:16, 58:19, 64:6, 68:15, 96:4, 96:16, 112:15, 115:13 early 16:15, 22:6, 22:7, 22:8, 22:11, 22:16, 26:4, 65:13 earn 125:9 earning 109:4 easier 60:6, 97:17, 128:20 easily 76:11, 113:14 eastern 1:2 economy 109:4 ecumenical 120:10 edgewood 10:10, 10:11, 10:14, 12:9, 12:20, 13:8, 15:8, 19:10, 36:10, 44:5, 45:5, 45:20, 55:12, 56:2, 57:9, 75:19,	75:20, 75:21, 76:12, 84:20, 85:21, 88:14, 90:6, 91:22, 93:9, 93:12, 103:12, 107:21, 111:4 education 106:9, 109:19 effect 53:21 effectively 54:1, 107:16, 125:17 efforts 108:16 either 20:20, 29:17, 41:18, 45:13, 54:13, 59:7, 68:7, 68:8, 71:19, 77:17, 88:11, 107:20, 127:13 elected 119:21, 127:14 election 127:10 electronic 59:12, 59:15, 66:16, 70:15 element 29:22, 30:4 elements 29:22, 78:22, 96:2 eligible 27:15 elliptic 127:9 elliptical 82:5, 104:22 else 10:22, 29:5, 56:21, 66:3, 83:12, 115:11, 116:1 elton 16:14
--	---	--	--

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

44

emanuel 3:4 embarrass 82:10 emerge 68:17 emerged 39:1, 92:22 emphasize 73:9 emphasized 73:8 empirical 106:14, 106:17 employ 119:4 employed 13:7, 55:22, 65:2, 85:20, 87:10, 129:10, 130:10 employee 60:8, 60:15 employees 25:17 employer 7:19, 56:13, 56:14, 57:3, 59:19, 60:7, 60:21, 66:5, 68:2, 68:8, 119:1 employers 25:16, 56:14, 66:13 employing 66:2 employment 7:16, 13:11, 13:14, 25:22, 27:7, 27:9, 27:12, 55:5, 56:6, 56:8, 56:18, 57:3, 65:20, 66:7, 71:11, 71:17, 72:9, 86:4, 109:15, 109:17,	118:10, 118:17 employs 66:5 empowered 64:1 enable 54:9, 108:17 enables 54:1 enacted 25:16 encountered 64:20 end 67:7, 76:10, 80:3, 96:17 ended 37:15, 37:17 enforcing 13:1 engaged 109:10 engaging 42:15, 98:9 engineers 11:9 enhanced 56:5 enjoy 58:2 enough 73:6, 86:4, 87:10, 101:21, 110:16, 114:5, 125:15, 125:22 ensure 25:12, 46:11 enterprises 109:11 entire 12:8, 13:2 entities 23:9, 23:15, 44:13, 48:20, 97:21 entitled 122:17, 122:18 entity 10:12, 19:22,	44:14, 45:19, 47:5, 47:12, 47:22, 48:1, 48:22, 76:13, 84:1, 84:2, 84:7, 100:8 equal 128:8 equate 90:1 equation 30:1 equity 39:19, 48:10 especially 113:12 esquire 3:3, 3:10, 4:3 essentially 42:15, 67:12 estate 15:22, 16:6, 120:4 estimate 19:5 et 1:5, 1:9 evaluations 107:4 even 48:19, 55:18, 79:11, 87:17, 88:14, 89:10, 89:17, 106:21 event 125:16 ever 7:1, 14:15, 33:1, 36:8, 64:20, 65:6, 66:11, 112:21 every 22:22, 24:20, 59:19, 60:7, 72:21, 73:10, 73:15, 73:17, 81:3, 81:11, 88:15	everybody 24:4, 60:5, 81:20, 89:7, 89:13, 89:22, 93:17, 102:12, 113:21, 116:1, 127:20 everyone 49:7, 50:2 everything 7:8, 15:3, 15:9, 15:10, 24:21, 41:11, 55:8, 100:21, 115:11 everywhere 44:21, 49:7 exactly 50:18, 72:21, 79:12, 82:21 examination 5:2, 6:21, 114:18, 121:2 examined 6:20 example 33:19, 60:10, 69:8, 85:21, 89:16, 108:19 exceedingly 25:15, 54:18 except 43:17 exchange 126:4 excited 53:11 exclude 24:8, 41:19, 41:20 excludes 40:8 excluding 22:1 exclusively 62:7, 63:2, 76:15 executive 12:21, 15:4,
--	---	---	--

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

45

15:20, 41:3, 41:5, 83:10 executives 77:18, 77:19 exhibit 5:11, 5:12, 6:1, 8:19, 34:19, 35:2 exist 55:4, 82:9 existed 92:22 existing 92:21 exists 15:22 expect 101:4 experience 9:6, 10:8, 24:5, 33:13, 54:21, 57:6, 63:22, 66:12, 68:4, 69:6, 83:7, 86:17, 104:4, 104:8, 106:7, 119:17 expert 5:12, 10:6, 34:6 expires: 130:16 explain 45:8 exposure 73:1 extent 18:17, 32:6, 33:4, 40:11, 42:2, 43:17, 49:2, 53:3, 83:5, 94:5, 94:7, 94:16, 95:6, 109:3 extra 51:16 eyesight 34:15	F facilities 64:17 facing 115:12 fact 10:8, 46:4, 48:20, 56:22, 62:12, 67:21, 116:13, 118:15, 127:4 factor 58:21 facts 95:15 fair 23:1, 28:17, 29:6, 31:1, 31:7, 31:11, 43:10, 45:1, 49:3, 72:22, 73:5, 96:21, 115:18, 124:15, 128:8, 128:21 fairfax 114:2, 114:4 fairly 59:4, 67:15, 94:1, 107:2 falls 3:14 false 74:5, 74:7, 74:22, 113:13 familiar 7:21, 8:21, 42:10, 75:14, 75:16, 76:18, 78:6, 117:12 family 13:16, 85:6, 87:5 fannie 18:17 far 79:22, 89:4 faster 59:13, 59:18	favor 16:16, 17:1, 17:4, 51:5 fax 9:3 fear 41:15 features 70:10, 70:21 federal 12:11, 18:7, 18:15, 19:7, 19:16, 20:5, 21:5, 23:10, 23:16, 24:9, 25:2, 26:2, 26:12, 27:15, 27:22, 28:21, 30:19, 42:1, 45:14, 46:7, 46:12, 47:16, 48:18, 48:21, 54:2, 68:13, 91:5, 93:13, 97:21, 100:12, 100:13, 100:20, 119:12, 120:4, 128:17 fee 107:11 feed 78:7, 79:19 feet 20:9 felt 47:14 female 85:20 few 59:6, 67:21, 96:20, 124:17 fh&eo 23:2, 49:3 fha 18:14, 18:15 fight 125:19 fighting 109:22, 127:19	figure 100:8 file 12:10, 31:7, 38:3, 75:9 filed 31:5 files 31:13, 74:16, 113:22 fill 59:6, 61:7 filled-out 53:19 fills 73:7 finally 19:1, 74:19 finance 25:3 financed 99:13, 101:15 financial 9:19, 10:10, 76:5, 85:14, 99:8, 101:19, 130:12 financing 18:7, 18:17, 18:18, 18:19, 29:22, 30:3, 41:19, 41:20, 43:12, 100:10 find 66:20, 106:10, 112:9, 128:9 finish 8:6, 8:7, 26:2 firm 14:10, 39:11, 41:3 firms 40:3, 40:11, 83:10, 102:2, 115:10 first 6:18, 13:7, 16:14, 26:3,
---	---	---	--

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

46

49:4, 52:5, 65:13, 68:18, 70:1, 70:4, 80:1, 92:3, 104:19, 104:20 first-level 102:3 five 7:6, 7:11, 59:17, 70:9, 74:14, 78:2, 78:15 five-year 7:14 fixed 126:6 flag 79:2, 87:2, 119:2 flags 78:22 flames 96:17 flexible 17:17 flight 64:15 floor 3:6 focus 15:18, 29:2 folks 11:17, 16:16, 25:13, 32:17, 32:19, 36:19, 44:19, 52:13, 67:14, 102:7, 104:10, 110:3, 127:17 follow 35:1, 47:15, 73:13, 73:17, 93:13, 112:18, 114:22 following 35:8, 35:15, 36:4, 36:7, 95:9, 119:1	follows: 6:20 fools 104:12 forbearance 57:18 foregoing 130:4, 130:5 foreign 57:9, 57:17, 58:8, 58:9, 64:16, 67:19, 68:4 forged 37:18, 37:21, 38:2, 68:17, 68:22 forgeries 37:15, 38:2, 69:16 forgery 69:7, 69:20 form 11:1, 12:17, 13:10, 13:13, 17:15, 21:12, 22:3, 23:19, 24:11, 25:2, 26:8, 26:13, 26:22, 27:19, 28:10, 29:7, 31:2, 31:18, 32:16, 33:22, 36:11, 37:8, 38:8, 40:9, 42:22, 43:19, 44:15, 45:9, 46:3, 46:14, 47:7, 48:8, 50:5, 53:22, 54:10, 55:1, 57:4, 59:3, 60:11, 62:5, 64:4, 65:3, 66:8, 68:5, 69:1, 73:3, 77:8, 77:16, 78:17, 79:6,	79:16, 81:4, 83:15, 83:17, 84:5, 85:1, 86:18, 87:3, 89:19, 92:1, 92:9, 93:10, 97:4, 98:17, 100:4, 101:7, 102:15, 108:21, 109:13, 110:9, 111:16, 112:14, 113:20, 118:19, 122:8, 123:13, 124:2, 124:14, 126:12, 127:8, 128:4, 128:22 forming 33:14 forms 54:19, 54:22, 69:12, 99:14 formulation 129:2, 129:4 fortunate 119:20 forums 84:11 forward 14:6, 22:17, 93:9 found 128:10 foundation 99:1, 117:7, 118:2 four 59:17, 70:9 frame 7:14 franklin 120:14, 120:17 fraudulent 17:7, 62:16 fraudulently 39:1, 39:5 freddie 18:16, 18:17 friends 39:20, 39:22,	40:2, 77:17, 82:15, 120:11, 121:8, 121:15, 123:8 friends' 96:16 front 8:11, 61:8, 76:10, 127:12 full 9:15, 9:17, 10:10 full-time 9:18, 11:16 fully 86:17 fully-documented 39:5 fully-professional 43:11 fundamental 111:14 funding 19:7, 21:5, 23:10, 23:17, 24:10, 26:2, 26:21, 27:16, 28:5, 28:8, 30:20, 47:1, 47:17, 48:18, 48:21 funds 48:16, 71:15, 72:4, 72:18, 99:21 further 79:1, 119:4, 120:22, 121:2 fuzzy 38:9
G			
			gaining 122:2 gallegly 16:14, 123:3 gave 9:18, 37:18,

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

47

115:6, 125:6 general 52:12, 67:5, 89:4, 119:10, 121:18 generalizations 114:6 generalized 84:12 generally 52:17, 74:1, 95:20, 100:14, 113:3, 121:17, 124:11, 124:15 generates 46:1 generic 55:16 gentlemen 120:19 george 1:15, 2:1, 5:2, 6:17 gestation 123:6 getting 29:20, 29:21, 70:8, 79:1, 87:3 giron 1:5 give 6:14, 8:10, 8:15, 13:4, 19:5, 36:16, 36:22, 54:6, 63:19, 67:4, 69:20, 70:6, 103:13, 116:4, 119:13, 126:4 given 10:7 given; 130:6 gives 115:17 giving 6:7, 8:10, 83:5, 110:7	globe 70:12 go 6:5, 6:14, 8:1, 11:4, 21:11, 21:14, 24:3, 24:14, 27:3, 31:13, 32:18, 33:16, 40:1, 45:11, 47:21, 52:6, 53:2, 60:1, 60:21, 61:14, 61:20, 63:20, 67:12, 71:3, 75:4, 79:22, 88:21, 91:12, 94:6, 94:20, 95:2, 97:7, 105:16, 105:19, 114:3 god 127:17 goes 11:7, 11:14, 63:12, 78:8, 98:12 going 6:5, 6:6, 11:8, 16:17, 32:8, 33:5, 34:2, 41:17, 41:18, 42:13, 43:9, 43:10, 47:12, 48:13, 50:12, 51:13, 52:15, 52:16, 52:17, 53:5, 54:12, 55:16, 56:20, 56:21, 57:2, 58:4, 61:17, 61:20, 63:1, 63:18, 66:3, 68:14, 71:6, 74:1, 74:4, 74:10, 74:13, 74:15, 74:16, 74:21, 78:4, 78:5, 78:19,	82:4, 82:10, 84:13, 84:14, 85:2, 88:2, 89:3, 89:6, 89:13, 90:21, 91:15, 94:9, 95:8, 102:9, 104:16, 104:17, 104:19, 104:21, 105:19, 106:10, 108:6, 108:9, 113:4, 113:7, 113:8, 113:11, 114:11, 114:15, 115:12, 119:2, 119:5, 119:13, 124:5, 125:9, 125:18, 127:9, 129:11 gold 116:15 gone 127:10 good 34:15, 51:15, 69:15, 77:15, 104:10, 115:21, 115:22, 127:2, 129:16 goofy 70:11 gotta 51:20, 59:9, 60:12, 60:16, 61:3, 61:9, 61:16, 62:7, 89:3, 89:5, 90:16, 113:15, 115:18, 118:22, 119:4 gotten 93:13, 97:15 government 26:21, 28:5, 28:8, 29:11, 30:7, 30:8, 30:22, 31:8, 45:14, 46:7,	46:19, 47:1, 54:2, 58:8, 60:8, 85:14, 116:11, 116:15, 117:2, 117:5, 117:21, 117:22, 124:5 government's 28:11 government-insured 30:2 government-related 30:2 grade 52:5 grandparents 13:17 grant 99:17 grant-making 107:6 granted 99:14 granting 125:10 greater 105:7, 128:12 green 55:17, 55:18, 56:2, 80:7 ground 42:15, 43:13, 43:21, 65:14, 125:17 grounds 10:21 group 44:6 groups 18:18 guarantee 97:18 guess 53:9, 63:19, 70:1, 99:3, 99:4, 116:18 guessing 99:4
---	---	--	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP
Conducted on December 20, 2016

48

guys 51:5, 71:2	81:13 help 17:18, 19:3, 34:2, 68:10, 72:6, 78:4 helped 21:21 helpful 36:2 helping 12:15 helps 116:11 henry 16:12, 97:8 here 27:7, 41:11, 49:22, 50:6, 50:17, 55:3, 55:9, 55:16, 55:20, 57:15, 57:17, 59:7, 59:9, 61:20, 61:22, 68:15, 68:17, 72:7, 73:9, 87:12, 90:18, 92:14, 104:14, 104:18, 105:18, 114:12, 116:5, 126:1, 126:21, 126:22, 128:15 hereby 130:4 hereunto 130:13 hi 114:20 high 67:15, 68:9, 77:19 high-end 15:9 higher 11:14, 70:13, 70:15, 70:17, 106:1 higher-end 11:19	hill 97:15, 120:7 hire 59:14 hired 60:9 hires 11:9 hiring 60:13, 60:14, 61:2 history 74:20, 86:4, 111:19, 112:1 hold 9:3, 23:11, 77:19, 88:10 holding 20:8, 34:18 holds 99:13 home 1:8, 21:7, 21:19, 25:1, 31:21, 42:14, 49:12, 52:11, 88:1, 90:9, 92:6, 98:16, 99:7, 100:3, 125:14, 126:7 hook 128:2 hottest 123:2 hours 116:18 house 28:15, 41:8 household 37:17, 81:3, 81:12, 84:21, 88:5, 88:6, 88:15 housing 15:5, 15:21, 16:4, 16:9, 17:14, 18:1, 18:3, 18:4,	18:13, 18:20, 19:1, 19:13, 23:1, 23:16, 25:2, 26:12, 27:16, 28:17, 31:7, 31:11, 31:22, 43:10, 45:1, 49:3, 55:3, 72:22, 73:5, 96:21, 98:5, 98:8, 115:18, 120:1, 127:1, 128:8 however 122:13 hud 16:1, 18:22, 23:3, 40:17, 48:9, 67:5, 73:7, 98:4, 98:5, 98:9, 99:6, 101:5, 102:13 hud; 46:2 huh 39:14 hurdles 58:7 huron 15:15 husband 89:16 hyde 16:12, 16:17, 97:8, 97:11, 97:12, 123:4 hypothetical 91:12, 92:5, 93:11 hypothetically 92:10, 92:11
		I	
		i- 54:22 i-9 59:6, 59:7,	

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

49

59:13, 59:18, 60:3, 60:22, 61:7, 61:9, 61:16, 62:4, 118:20 id 54:7 ideal 32:15 identification 6:2, 111:15 identify 76:2, 111:11 identifying 113:7 identity 57:10, 58:9, 73:21, 78:10, 112:1, 116:12 illegal 109:7, 116:4 illegally 126:21, 126:22 illegals 127:2 illustration 70:7 imagine 13:5, 58:7 imbue 43:17 immediately 87:2 immigrant 39:5, 66:6, 106:2, 107:20, 112:2 immigrants 16:8, 22:1, 24:8, 36:9, 40:8, 67:20, 68:4, 105:6, 106:3, 108:18, 109:12, 111:6, 124:13 immigration 54:17, 116:10, 117:4, 117:21,	127:11, 127:15 immunity 58:2 impact 18:22 impacts 48:12 implementation 73:6 important 25:5, 25:15, 27:12, 58:21, 75:3, 113:22 impression 68:18 imprimatur 57:21 in-house 10:6 inappropriate 109:5 inaudible) 9:13, 117:13 inbound 100:11 incentive 40:21 incentives 41:1 include 13:18, 13:20, 13:22, 37:21, 41:19 included 21:7, 84:1 including 70:11, 90:8, 99:21, 125:22 income 17:17, 18:5, 18:8, 39:1, 39:6, 67:2, 67:3, 68:12, 73:16, 86:3, 86:11, 87:10, 89:8, 106:8 incomes 56:8	inconsistent 28:16 independence 120:18 independently 119:8 index 80:4, 106:9 indian 98:8 indicated 32:19, 125:6 indicating) 20:7, 52:5, 61:12, 70:9 indication 63:7 indicator 62:22, 80:8 individual 38:15, 41:3, 49:14, 61:6, 62:12, 62:20, 64:1, 64:22, 75:8, 81:12, 84:8, 86:9, 86:10, 89:10, 89:11, 112:13, 113:1, 124:9 individual's 66:7, 91:20, 103:1, 123:1 individuals 63:13, 67:19, 103:21, 109:10 industry 76:5, 95:22, 96:6, 101:19, 119:16, 119:19, 119:21, 120:11, 121:5, 121:7, 128:10 information 25:6, 32:5, 32:14, 33:2, 33:4, 35:12, 35:18, 43:7, 53:8, 73:22,	74:8, 83:11, 93:21, 101:19, 102:8, 112:12, 114:1, 119:13 infrared 70:10 infrastructure 99:21 inherent 18:21 inherently 114:5 initially 93:15 initiate 107:14 input 77:7 inquiries 31:12 inside 20:11, 41:8, 47:11, 47:18, 77:1, 80:5, 80:10, 120:9, 122:12 inspector 67:5 instances 29:15, 54:13, 66:21, 107:7, 113:10 institute 120:3 instruct 32:8, 33:6, 53:5, 94:9, 95:8 instructing 33:9, 35:13, 94:11 instruction 35:8, 35:16, 36:5, 36:7 instructions 95:10 insured 29:17 integrated 80:15
--	---	--	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

50

intensively 107:8	79:21, 117:10, 122:9, 127:16	july 130:17	51:4, 51:11, 51:20, 52:2,
intent 25:12, 26:5, 26:18, 47:15	issues 11:12, 16:4, 65:12, 115:12,	jury 8:11	52:8, 52:19, 53:15, 53:20,
interchangeably 10:13	123:6	justice 3:11, 67:6,	54:16, 55:6, 55:17, 55:18,
interest 18:21, 130:11	it'll 118:16	82:11	55:21, 55:22, 59:5, 59:17,
interested 55:5, 55:15	item 42:16, 42:17,	justification 116:21	60:5, 60:9, 60:15, 62:8,
interface 77:10, 77:11	43:13	justin 4:3, 114:20,	66:2, 68:13, 69:13, 70:16,
internal 122:5	items 74:4, 74:5	115:8	80:11, 80:13, 81:7, 93:15,
internally 97:11	itin 53:15, 53:17,	K	97:13, 97:16, 98:15, 99:10,
interrupt 8:8, 16:21, 53:1, 61:14	53:18, 53:20, 54:5, 80:13	keep 47:14	99:12, 100:7, 100:15, 101:4,
intervention 40:20, 41:15	itins 53:19, 54:22,	keeping 10:21	101:10, 101:11, 101:15, 101:18,
intimate 118:4	55:3, 55:12	kept 10:21	102:3, 102:4, 102:16, 109:21,
intimately 117:12	itself 30:22, 36:18, 37:7	key 49:22, 73:8	102:16, 109:21, 111:18, 112:8,
introduced 16:14, 123:4	J	keyboard 51:8	111:18, 112:8, 115:19, 116:7,
invent 97:14	jacket 38:2	kick 122:10	116:17, 116:19, 117:13, 118:3,
investigation 119:5	january 130:15	kill 51:7	118:5, 118:20, 119:6, 119:9,
involve 16:8, 48:13	jersey 108:15	kind 7:15, 70:11, 104:1, 116:5	120:12, 120:16, 125:15, 126:20,
involved 10:16, 11:10, 11:11, 11:22, 58:8	job 1:20, 10:2, 52:18, 89:14, 90:1, 109:6, 125:21	kinds 20:13, 54:19, 82:6, 110:3, 115:12	126:22, 127:1
involvement 24:7	jobs 40:12	kirk 1:22, 2:19, 130:3	knowing 43:1, 43:21, 47:10, 79:7, 99:8, 102:16
isolate 75:5	joint 81:6, 81:7, 81:18, 81:19, 81:21, 82:2, 84:20, 88:13, 89:6	know 8:22, 18:15, 25:1, 25:6, 25:15, 25:17, 30:2, 38:18, 40:2, 40:15, 43:3, 43:4, 43:22, 46:20, 50:8, 50:17, 50:22, 51:3,	knowingly 127:1
issue 11:6, 11:7, 16:8, 22:7, 22:8, 22:19, 25:7, 28:13, 36:18, 38:6,	joy 3:3, 105:2, 116:18		knowledge 12:22, 24:6, 38:22, 96:7, 102:14, 105:5, 106:1, 106:11, 106:14, 110:5, 110:14, 111:10, 112:11, 112:20, 119:16, 121:5
	judge 8:11		L
			label 35:1

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

51

labor 60:14 lack 106:8, 106:9 lag 8:3 laid 67:11 lake 14:11, 15:13 landlord 26:11, 26:19, 26:20, 27:15, 28:3, 29:3, 29:4, 29:5, 29:12, 30:13, 30:15, 42:2, 62:20, 63:4, 110:8, 116:11 landlord's 30:10, 31:1, 31:16 landlord-tenant 58:5, 125:15 landlord; 43:18 landlords 26:5, 39:9, 41:12, 81:22 language 73:6 large 14:10, 56:14, 110:22 largely 33:15 larger 115:10 largest 14:14, 15:12, 15:14 last 7:6, 7:10, 7:11, 11:17, 37:9, 56:20, 61:2, 66:22, 67:22, 74:11, 74:13, 74:19,	77:1, 103:18, 109:22, 115:13, 116:20, 124:8, 128:11 late 16:12, 22:12 later 21:3 law 7:16, 65:15, 66:1, 125:15 laws 25:15, 54:18, 59:5, 119:1 lawyer 81:6 lawyer's 95:9 lawyers 32:21, 108:3 lay 91:13 lays 50:18 leads 104:5 leaping 108:22 learn 108:17 lease 13:19, 13:21, 29:2, 29:4, 29:13, 30:11, 31:5, 39:6, 42:16, 43:1, 43:3, 43:13, 43:21, 58:21, 71:12, 71:16, 72:13, 72:16, 72:19, 72:21, 78:11, 81:7, 81:13, 83:7, 84:2, 85:19, 85:22, 86:12, 87:17, 88:3, 88:4, 88:17, 89:5, 89:12,	89:21, 90:6, 90:21, 91:17, 91:19, 91:22, 92:3, 92:8, 92:13, 92:14, 92:15, 92:21, 93:2, 93:6, 96:13, 111:14, 121:11, 121:16, 121:18, 122:3, 125:17, 126:2 lease; 31:1 leased 57:16 leaseholder 50:3, 88:3 leases 42:11, 58:19, 81:5, 81:18, 81:21, 82:3, 82:18, 83:1, 83:3, 83:9, 84:21, 85:6, 88:13, 103:11 leasing 27:7, 78:6, 129:8 least 99:4, 109:17, 109:19, 109:20, 113:5, 122:7, 125:13 leave 110:7 leaving 13:5, 110:17 leesburg 3:12 left 28:8, 28:11 legal 3:11, 26:6, 38:6, 50:5, 58:20, 61:4, 62:13, 62:21, 64:13, 65:19, 72:2, 72:8,	84:16, 90:8, 97:22, 103:1, 115:3, 118:9, 118:15, 123:1, 123:21, 128:2, 128:6, 128:15, 128:19, 128:20 legality 25:17 legally 25:21, 27:17, 28:1, 28:7, 50:4, 50:7, 50:17, 55:3, 55:7, 55:9, 55:10, 55:20, 59:8, 59:9, 62:1, 63:8, 63:15, 64:1, 68:15, 72:16, 84:8, 87:13, 90:18, 92:14, 104:14, 104:19, 105:18, 116:5, 122:17, 124:21, 125:8, 126:1, 129:10 legislation 17:5, 22:5, 22:10, 22:16, 25:11, 26:4, 96:21, 98:13 legislative 120:7, 123:3 legitimate 68:19, 71:11, 109:15, 109:17 less 36:21, 37:1, 47:5 let's 20:3, 22:15, 37:5, 41:20, 58:14, 85:10, 85:16, 85:19, 87:15, 87:21, 105:16, 106:16 level 11:15, 17:17,
--	---	---	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP
Conducted on December 20, 2016

52

106:21, 117:12 liberal 102:6 license 70:3 licenses 70:4 licensing 103:9 lied 66:13 lies 68:8 life 60:6 lift 40:17 likelihood 126:1 likely 103:20, 106:12, 108:9, 108:19, 109:11, 110:6, 111:6 limited 1:8, 31:3, 54:15 line 104:15 lisa 1:22, 2:19, 130:3 list 24:17, 50:10, 50:12, 50:14, 50:15, 51:3 listed 90:9, 92:7 listen 51:13 lists 19:9, 23:14 literally 20:4, 31:12, 73:7, 73:14, 80:2, 85:5 litigation 49:21	little 8:3, 17:18, 27:6, 38:9, 70:11, 77:5, 104:3, 112:6, 122:10 live 104:10, 124:6 living 42:8, 71:19, 88:1, 109:5 llc 100:8 llp 2:3, 3:4, 4:4 loan 29:19, 29:20, 30:6, 30:7 lobbied 16:16 lobby 124:5 lobbying 15:7, 15:17, 16:7, 17:21, 18:6 local 29:2, 100:11, 114:5 locality 75:12, 112:16 located 34:10 location 125:13 locations 14:17 logistical 58:7 logistics 10:20 long 20:5, 20:7, 20:10, 97:14, 107:12, 116:1, 125:19 longer 11:21, 71:22,	79:20 look 9:4, 29:21, 31:9, 31:12, 34:21, 47:11, 49:5, 54:12, 63:20, 74:13, 74:15, 78:15, 79:1, 84:14, 87:9, 97:9, 100:2, 100:9, 100:10, 100:14, 106:5, 114:3, 116:5 looked 11:7, 61:2, 65:6, 68:18, 77:2, 79:21, 86:15, 86:21 looking 24:17, 24:18, 41:10, 57:1, 57:5, 69:13, 74:6, 75:5, 99:22, 108:3, 111:12 looks 70:3 lookup 78:8 lose 125:19 lot 14:3, 38:18, 40:2, 41:6, 41:7, 43:2, 58:3, 59:17, 65:11, 65:13, 70:3, 70:12, 86:15, 101:14, 109:16, 109:21, 113:10, 120:5, 120:10, 125:20, 126:7 lots 43:2, 54:14, 124:4 loud 51:16	louisiana 14:20 low 18:7, 68:9, 68:12, 110:20 low-income 31:22 lower 106:2 lowest 70:18 lunch 82:15, 106:19, 122:19, 123:8, 126:16 lunches 101:21 luxuries 15:9 <hr/> M <hr/> ma'am 7:3 mac 18:17 made 93:14, 116:3, 116:4 maintain 23:7, 44:18, 44:20 maintaining 47:15 major 11:8, 13:22, 14:6, 73:5, 76:1, 106:5 majority 87:18, 104:9 make 29:18, 35:7, 51:16, 51:20, 52:13, 61:9, 67:17, 69:19, 81:9, 87:12, 88:12, 89:5, 90:5, 94:15, 96:22, 102:7,
---	---	--	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

53

107:12, 110:2, 114:6, 115:22, 119:8, 125:20 makes 60:6, 109:4, 126:14 making 39:3, 42:19, 51:8, 55:6 male 85:19, 90:7, 91:18 manage 9:11, 11:18, 13:16, 21:22, 23:3, 40:18 managed 14:2, 14:10, 15:3, 15:9, 15:12, 15:14, 19:6, 21:7, 48:19 management 9:20, 9:22, 10:7, 10:11, 10:14, 11:16, 11:20, 12:11, 12:12, 12:20, 12:21, 14:9, 14:10, 15:5, 15:21, 23:6, 28:15, 28:16, 40:17, 41:6, 41:13, 44:6, 57:7, 82:1, 82:9, 82:17, 83:13, 96:14, 102:20, 120:2, 123:10 management's 120:4 manager 13:15, 45:6, 69:2, 80:1 managers 101:2, 101:3, 101:4, 101:10, 101:13, 101:15,	101:16, 101:20, 102:2, 127:22 managing 9:6, 22:18, 40:18, 48:1 mandated 60:5 manner 43:12, 65:9 manual 62:8, 85:6, 98:10, 98:11, 101:5 manuals 12:9, 99:6, 102:13 many 7:4, 7:7, 14:1, 36:14, 41:5, 54:13, 66:15, 66:21, 67:18, 74:22 marked 6:1, 8:19, 34:19 market 32:2 maryland 40:4, 82:7, 108:12, 108:14 match 78:22 material 102:11 materially 67:2, 67:15 materials 33:13, 125:6 matter 67:21, 112:22, 116:13 matters 102:1, 120:8 maybe 9:3 mclean 1:16, 2:6, 4:7 mean 11:15, 16:21,	42:12, 52:10, 54:16, 55:7, 61:13, 70:12, 73:5, 76:6, 80:8, 110:21, 119:3, 119:18 meaning 41:22, 45:5, 60:3, 67:3, 69:12, 90:18, 106:14, 109:5, 110:17, 123:20 means 23:4, 25:20, 28:14, 45:8, 50:4, 52:17, 58:12, 61:19, 61:21, 88:7, 90:2, 93:2, 93:5, 119:4 meant 51:17, 51:22 measure 116:20 median 18:5 medium-sized 115:9 meet 49:7, 49:11, 89:22, 90:2, 90:10, 93:3, 93:7 meeting 67:11 meetings 10:5, 101:21 meets 89:16, 91:18 member 82:20 members 85:7 memphis 15:2 mention 57:15 mentioned 40:7, 40:11,	45:4, 58:19, 64:6, 68:15, 78:9, 96:20, 116:19 mentioning 38:16 merchant 14:21 met 29:19, 90:7 methodology 73:11 microphone 51:7 mid 15:11, 123:4 mid-career 15:4 mid-city 9:19, 10:1, 10:10, 10:15, 12:16, 12:19, 13:8, 36:9, 38:14, 44:5, 44:14, 45:5, 45:20, 47:6, 55:12, 56:1, 57:9, 63:4, 75:19, 76:12, 84:20, 85:21, 88:14, 90:6, 91:21, 93:9, 93:12, 107:21, 111:4 middle 22:11, 110:18 might 8:3, 13:5, 33:16, 74:6, 108:6, 109:8, 109:16, 116:17, 125:13 mighty 69:15 military 64:9, 64:10, 64:17, 64:21 million 128:13
--	--	---	--

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

54

mind 76:22, 87:11, 104:20, 104:21	58:22, 63:5, 71:13, 72:11, 72:14, 84:4, 85:12, 85:15, 85:18, 91:10, 102:21	mortgage 20:22, 41:19, 41:20, 41:22, 42:4, 42:5, 42:7	must 27:16, 49:11, 88:15
mine 70:5	mobile 1:8, 14:18, 21:7, 21:19, 25:1, 31:21, 42:14, 49:11, 52:11, 98:16, 99:7, 100:3, 125:14, 126:6	mortgaged 42:18	mute 51:12
minimum 99:12	moment 23:9, 65:10	mortgages 18:14, 29:17	myself 13:14
minute 6:6, 8:9, 87:2	monetary 41:16	mortgagor 42:6	<hr/> N <hr/>
minutes 94:19, 124:17	money 19:16, 27:21, 29:16, 41:2, 41:22, 48:12, 99:17, 99:18, 100:11, 100:12, 100:13, 110:18, 125:9, 125:20, 126:5	most 8:16, 12:3, 14:22, 21:16, 24:16, 28:18, 28:20, 29:19, 37:5, 54:11, 67:7, 68:13, 69:10, 74:2, 74:11, 78:18, 81:5, 97:16, 100:19, 106:21, 108:6, 111:1, 113:8, 113:9, 116:13, 119:22, 120:13, 120:20, 121:15, 125:10, 127:12	nail 27:5
mis 88:18	monthly 45:14	motivation 46:11	name 12:12, 34:3, 75:4, 76:19
misallocation 48:10, 48:16	months 123:5, 128:11	move 51:13, 58:18	names 74:16
mischarac 96:9	more 14:16, 15:2, 17:18, 19:18, 29:2, 47:10, 55:5, 66:17, 69:12, 69:19, 76:11, 85:3, 86:15, 86:21, 103:7, 103:19, 104:5, 106:8, 106:12, 108:19, 109:4, 109:11, 110:6, 111:6, 111:11, 112:7, 115:16, 116:3, 116:22, 120:6, 120:10, 121:17	moved 14:12, 14:17, 22:12, 69:12	naming 82:10
mischaracterize 17:3, 44:9, 80:21, 81:15, 89:1, 90:12, 98:2, 105:9, 112:4, 112:6, 121:13, 124:3, 125:2		moving 60:6, 109:7	narrow 41:17, 42:13, 94:1
mischaracterizing 90:16		much 11:5, 15:10, 18:13, 49:17, 80:6, 108:13, 110:22, 112:7, 120:6	national 15:5, 15:21
misrepresent 66:6, 69:14		mugshots 113:11	nationals 57:17, 58:10, 64:17, 67:20, 68:4
misstate 96:5		multifamily 9:11	nature 19:19, 43:12, 101:9
misstated 67:9		multiple 7:9, 75:3	naval 64:10
misstatement 67:16			near 70:19
misstatements 68:2			necessarily 17:4, 43:13, 72:3, 90:1
misstating 67:2, 68:12			necessary 25:8, 47:14, 81:2, 108:7, 113:18
mittell 14:18			need 6:9, 8:21, 9:4, 11:13, 23:6, 41:17, 41:18, 61:6, 71:4, 71:10, 74:21, 78:4, 84:13,
mixed 28:14, 28:18, 115:14			
mm-hmm 44:7, 45:7, 45:22, 47:3, 48:3, 56:4,			

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

55

85:2, 99:10, 99:12, 100:8, 111:18, 115:22 needs 11:7 neighborhood 107:5 neither 130:10 never 43:2, 82:16, 82:17, 82:18, 104:13 new 93:7, 108:14 next 93:2 nexus 70:8 nice 127:17 nicely 112:5 night 110:19 nobody 22:9, 29:5, 86:17 non-assisted 19:13, 23:8, 85:10, 86:8, 87:7, 87:8, 87:15, 91:17, 115:1, 115:7, 124:19 non-funded 48:22 non-hud 115:1, 115:7, 124:19 none 8:17, 106:20 nonrenewal 93:8 nope 93:20 normal 95:21	normally 71:5 northern 39:9, 40:4, 82:2 northwest 3:5 notarial 130:14 notary 2:21, 130:20, 130:22 note 129:14 notes 51:20, 99:13 nothing 6:19 notice 2:19, 110:7 number 14:4, 15:16, 36:16, 36:22, 40:2, 50:22, 54:7, 58:1, 61:7, 61:12, 61:18, 62:3, 62:13, 62:19, 63:6, 63:14, 64:3, 65:1, 73:20, 75:7, 76:21, 77:6, 77:12, 78:1, 78:6, 78:13, 79:4, 79:7, 79:14, 80:13, 98:11, 99:19, 100:6, 104:12, 109:20, 110:20, 112:21, 113:4, 113:18, 115:8, 122:6, 130:22 numbers 62:16, 75:2, 97:16, 113:6 <hr/> O <hr/> oath 6:15	obtain 65:20, 118:10, 118:17 obtained 83:12 obtains 117:4 obviously 38:17, 40:12 occasional 106:19 occasionally 10:13, 36:17, 69:15, 108:4, 122:8, 123:12, 123:17 occupancy 98:4 occupies 20:6 odom 3:3, 5:3 of: 2:2 offender 74:21, 75:8, 112:13, 113:1, 113:13 offense 38:10, 38:11, 68:13 offer 126:3 offered 91:9 offering 27:13, 94:16 office 76:8, 76:10, 102:9 officer 12:22, 130:3 officers 64:10 offices 2:2 officially 10:3	okay 6:13, 7:15, 9:2, 28:3, 30:6, 41:10, 48:15, 52:7, 76:8, 78:9, 85:10, 86:7, 87:8, 88:9, 91:7, 92:10, 92:20, 94:20, 95:19, 103:17, 114:2 old 14:9, 59:18 once 14:7, 66:18, 113:21 one 2:4, 4:5, 7:13, 8:5, 9:18, 11:7, 11:9, 11:13, 12:19, 15:11, 16:5, 22:19, 23:6, 23:17, 28:18, 31:3, 33:16, 37:16, 38:6, 38:9, 38:17, 41:1, 41:9, 44:4, 47:10, 47:17, 48:4, 48:11, 48:17, 48:18, 48:20, 51:12, 52:3, 54:6, 55:14, 58:1, 58:13, 60:2, 61:16, 70:7, 70:17, 73:22, 75:17, 76:16, 77:2, 78:7, 79:18, 79:19, 80:18, 83:1, 83:3, 84:21, 86:9, 86:10, 87:10, 88:16, 89:10, 89:11, 91:4, 100:6, 103:13, 103:18, 104:15, 104:19,
--	--	--	--

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

56

105:5, 109:1, 109:6, 110:10, 111:9, 115:9, 121:8, 121:10, 121:14, 122:16, 123:2, 127:5 one's 50:12 one-size-fits-all 100:17 ones 55:4, 70:15 oneself 58:3 online 113:11 only 8:5, 12:19, 21:8, 30:15, 32:20, 34:1, 35:4, 36:16, 36:17, 50:16, 56:20, 62:6, 78:7, 88:16, 89:18, 89:21, 90:9, 91:19, 109:1, 109:6 open 10:21 openly 119:11 operate 19:1, 19:14, 19:15, 23:2, 40:5, 43:11, 44:17, 44:18, 100:21, 115:20 operated 10:8, 14:19, 21:19, 47:19 operates 42:21 operating 33:17, 45:18, 112:17 operation 10:14, 10:15, 10:18, 13:22,	19:19, 45:15, 46:1 operational 10:5, 14:7, 30:3 operations 10:6, 10:17, 11:6, 19:12, 20:21 operators 50:1 opine 32:3 opinion 26:18, 27:11, 27:14, 30:18, 30:20, 34:4, 44:13, 77:14, 80:18, 81:9, 83:6, 93:22, 97:20, 103:19, 109:10, 110:10, 110:13, 111:22, 115:5, 120:8 opinions 26:1, 27:18, 32:5, 33:14, 33:15, 43:8, 91:9, 94:16, 95:16, 119:15, 121:4 opportunity 97:2, 128:8 opposed 19:13, 68:3, 71:16, 106:3 opposing 119:19 oral 50:16 order 25:6, 27:14, 27:21, 46:5, 49:12, 52:15, 59:8, 61:7, 61:9 organization 15:22, 16:19, 16:22	organized 102:4 originally 92:3 other 8:2, 27:6, 31:6, 31:7, 33:1, 35:9, 35:17, 36:6, 38:15, 40:4, 41:4, 41:7, 44:18, 47:11, 48:12, 50:5, 57:18, 58:3, 58:13, 60:2, 63:12, 64:18, 70:11, 70:12, 73:11, 74:8, 80:3, 87:3, 90:2, 90:17, 96:13, 98:3, 98:22, 101:8, 102:1, 106:9, 107:7, 108:9, 109:1, 109:22, 110:11, 111:9, 113:4, 113:5, 113:7, 114:1, 123:9, 127:6 others 10:9 otherwise 23:2, 106:22, 109:15, 109:17, 130:12 ourselves 128:11 out 9:1, 11:15, 17:18, 28:8, 50:18, 58:5, 59:6, 61:7, 67:12, 68:10, 68:19, 70:2, 71:6, 72:6, 78:4, 78:8, 91:13, 100:8, 105:19, 107:12,	113:16, 122:14 outcome 130:12 outset 52:1 outside 38:6, 64:20, 94:10, 102:11, 107:21, 111:4 outsource 56:14 over 8:1, 8:2, 14:2, 15:8, 17:10, 21:7, 21:22, 34:11, 50:2, 57:16, 66:21, 81:12, 83:8, 85:7, 87:18, 88:10, 96:8, 96:17, 97:13, 97:14, 101:9, 106:19, 107:10, 117:18, 119:22, 124:4, 127:18 overseeing 12:14 owing 110:18 own 9:20, 9:21, 10:19, 13:16, 33:13, 39:13, 39:15, 79:7, 83:7, 96:7, 102:19, 119:17, 120:9 owned 10:12, 15:3 owner 107:15 owner's 10:4 owners 17:6, 17:9, 24:18, 50:1, 75:18, 102:5, 107:11, 125:21
---	---	--	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

57

ownership 10:15, 47:12, 106:5	78:10, 78:21, 101:1, 106:4, 107:6, 111:1, 111:14, 115:3, 116:2, 119:18, 125:7	pattern 49:5	71:16, 126:6, 127:12
P		pay 56:17, 56:20, 72:4, 72:18, 81:13, 106:13, 116:19, 125:9, 126:2	permit 65:21, 118:11
package 43:12, 52:22, 56:7, 116:2	partial 50:15	paying 58:6, 61:3	permits 11:13, 11:14, 57:13
page 5:2, 5:11, 34:22, 85:5, 109:1, 111:13, 118:8	partially 9:14	payment 45:17, 86:19, 87:3, 88:8, 88:17, 88:19, 111:19, 112:1	person 53:20, 54:9, 62:18, 72:16, 75:5, 75:6, 89:12, 89:14, 108:20, 117:4, 118:15, 119:13
pages 35:1	participate 59:19	payments 38:21, 46:6, 71:20, 87:1	person's 72:2, 72:8
pages: 1:21	particular 26:11, 58:21, 76:4, 76:9, 101:5, 107:5, 122:3, 124:11	payroll 54:2	personal 24:5, 83:7, 96:7, 97:1, 102:19
paid 29:20, 52:15, 52:16, 58:4, 89:6, 129:9, 129:11	particularly 17:5, 29:19, 43:9, 54:17, 67:10, 71:21, 115:9	payrolls 101:16	perspective 18:2
pair 86:7	particulars 101:11	penalize 17:6	petitions 107:10
paper 59:18, 70:6, 70:20	parties 6:13, 119:8, 130:11	penalties 41:2, 41:16	phone 71:5, 80:4
parent 10:12, 85:20, 87:16	partnership 1:9, 100:7	pensacola 64:11, 64:15	phonetic) 65:10, 100:6
parents 13:17	partnershiping 100:6	people 11:16, 18:4, 37:16, 75:3, 77:21, 87:12, 104:10, 105:18, 108:8, 108:9, 110:17, 120:5, 122:19, 128:14	phrased 45:6
park 1:8, 25:2, 31:21, 49:12, 52:11, 98:16, 99:7, 100:3	parts 17:5	people's 82:13	pick 78:20
parks 21:20, 125:15	pass 69:19	percent 18:5, 19:10, 19:11, 23:10, 23:11, 24:20, 45:17, 123:5	picked 38:10
parse 85:2, 105:17	passed 22:9, 22:16, 26:3, 98:15	percentage 19:6	picks 77:3
part 9:22, 24:16, 26:1, 30:20, 45:15, 46:10, 51:20, 55:13, 56:2, 71:11, 72:10, 74:18,	passing 57:15	perform 37:12, 76:13	picture 30:7, 70:5
	passport 57:10, 70:14	period 14:15, 19:9,	piece 25:5, 70:6, 74:19, 78:7
	passports 58:9		pieces 27:11, 30:18, 73:22, 74:8, 114:1
	past 78:2, 78:15		pih 98:6, 98:10
	path 44:3		pike 3:12

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

58

<p>place 2:4, 4:5, 25:11, 48:11, 128:6, 128:7 places 40:5, 98:3, 106:6, 128:9 plaintiffs 1:6, 6:21, 121:2 plaintiffs: 3:2 plan 49:13, 50:19, 50:20, 122:15, 127:2 planet 70:18 plans 11:10, 90:19, 122:5, 122:22, 126:18 play 22:6 pleadings 125:8 please 71:3, 96:5 plowed 65:14 plus 14:20, 113:10 point 9:14, 12:13, 13:11, 14:5, 15:11, 15:13, 46:4, 53:19, 76:15, 97:15, 120:22, 127:18 police 106:6, 108:1 policies 12:2, 12:6, 12:7, 12:10, 12:11, 12:15, 13:1, 23:6, 23:22, 46:11, 48:21, 49:14,</p>	<p>91:3, 91:5, 102:6 policy 12:8, 15:7, 15:17, 16:7, 17:22, 18:6, 22:1, 22:19, 23:17, 24:8, 25:7, 40:7, 40:21, 47:16, 49:15, 49:20, 50:9, 50:18, 52:9, 65:9, 87:12, 92:7, 92:11, 92:13, 92:22, 93:1, 102:14, 102:22, 116:9, 124:12, 124:20, 126:9, 128:12 politician 104:2 polling 40:10 pop 75:4, 108:5, 123:17 popped 127:15 population 106:2, 107:20 portfolio 9:21, 10:9, 13:2, 13:5, 14:11, 14:21, 19:4, 19:8, 19:10, 24:22, 76:3, 115:14, 125:14 portion 30:21 pose 105:6 posed 95:21 position 9:18, 32:3, 57:4, 127:13,</p>	<p>128:11 positions 14:7, 74:17, 119:21 positive 74:5, 74:7 positives 74:22, 113:14 possesses 62:19 possession 125:18 possible 39:4, 96:12 post 39:17, 107:17 potential 72:12 potentially 93:6, 102:10 practice 49:5, 95:21, 96:7, 115:2 practices 95:22 prd 39:21 precise 36:16, 36:22 precisely 26:14, 32:1, 43:1, 80:11 precision 38:1 prefer 76:2 premise 87:14 prerequisite 123:22 prerequisites 122:2 presence 28:6 present 22:18, 23:12, 27:17, 47:17, 72:16, 84:8,</p>	<p>88:4, 88:6, 90:17, 92:6, 124:21 presented 17:6 presents 56:2 president 12:22, 14:8, 120:1, 127:14 pretty 15:10, 65:22, 111:2 prey 108:9, 109:4 price 82:17 pricing 121:16 primary 13:10, 13:13 principal 97:8 principally 14:19, 18:3 printed 70:20 prior 7:13, 12:4, 79:5 prison 109:18 private 42:5, 60:8, 60:9 privilege 94:12, 95:8 privileged 33:3, 35:12, 35:17, 95:18 probably 7:21, 34:10, 37:1, 49:17, 53:18, 70:14, 86:2, 87:9, 89:20, 100:5, 120:16, 123:4 problem 36:3</p>
--	--	--	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

59

problems 115:18	22:19, 24:7, 36:10, 38:18,	proverbial 128:5	47:22, 49:22, 53:4, 53:7,
procedure 112:18	39:17, 40:6, 48:2, 76:3,	provide 50:9, 50:11,	53:13, 53:14,
procedures 67:4, 107:14	85:13, 98:22, 101:15, 104:16,	51:1, 56:15	60:20, 62:18,
process 36:18, 37:9, 56:3, 57:11, 60:22, 63:10, 67:9, 67:11, 68:16, 73:15, 73:17, 110:16, 114:5, 115:3	104:18, 105:20, 107:5, 107:11, 110:1, 124:1	provided 33:2, 37:14, 122:16	72:13, 77:5, 77:6, 78:9, 85:2, 86:7, 87:14, 94:8, 94:10, 95:3, 95:6, 99:11, 103:18, 117:17, 124:18, 126:19
processes 11:11, 69:11, 69:19	properties' 12:1, 122:22	provisions 59:5, 81:20	questions 94:2, 95:20, 114:11, 114:15, 114:16, 114:21, 114:22, 120:22, 121:1
processing 55:8	properties; 9:6	prwora 97:6, 98:15	quick 58:14, 71:4, 87:9, 94:21
produced 33:20	property 10:7, 15:15, 22:22, 23:14, 24:17, 24:20, 28:19, 38:5, 38:7, 38:12, 41:13, 42:8, 48:5, 48:6, 82:1, 83:13, 91:13, 91:17, 96:14, 99:17, 99:18, 101:1, 101:6, 101:20, 102:14, 107:10, 107:14, 108:8, 110:7, 122:3, 124:12, 127:22, 128:18	public 2:21, 98:5, 98:8, 130:20	quickly 14:6
producing 17:10	proposals 65:12	pull 75:7, 75:9, 107:22, 108:1, 108:2, 112:12, 112:18, 112:22	quinn 3:4
product 75:18	proposing 18:22	pulled 11:13	quite 62:17
program 77:1, 77:7	proposition 52:12	pulls 11:14	quote 65:18
programs 68:11, 77:10	proprietary 79:10, 122:11	purpose 95:13	
projects 11:19	prospective 26:19, 29:13, 49:11, 50:9, 50:21, 56:1, 73:21, 76:14, 84:3, 111:12, 124:21	purse 70:2	
promptly 122:16	prove 62:13	pursuant 2:19	
proof 57:10, 58:9, 115:2		put 34:4, 57:1, 93:9, 111:5, 119:2, 122:14	
proper 29:12, 111:15			R
properly 111:11		Q	
properties 9:21, 12:16, 13:3, 13:4, 13:19, 13:21, 14:11, 15:1, 15:10, 19:6, 21:6, 21:8, 21:21, 22:17,		qualify 27:21	raid 68:16, 69:4, 110:2
		quality 30:10, 77:15, 77:20	raids 38:17, 107:17
		question 7:5, 8:6, 22:15, 26:10, 27:4, 28:3, 32:7, 33:4, 35:20, 41:18, 44:11, 46:17,	raise 52:4, 87:4
			raises 87:2
			ran 13:2
			range 14:22, 16:3, 55:19
			rare 64:19, 66:17
			rate 110:17, 110:19

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

60

rates 106:1	46:22, 48:7, 85:14, 97:21	reference 111:12	20:11, 20:13, 21:1, 21:4,
rather 103:9	received 19:7, 23:10,	referral 67:6, 67:17	97:21, 124:6
ratio 23:8, 23:11	25:2, 42:4	referrals 67:8, 67:18	regulator 84:15
reach 70:2	receives 26:12, 46:18,	referring 97:1, 107:18	regulators 84:17
reacting 37:10	receiving 45:20, 86:11	refinancing 107:3	regulatory 11:12, 12:11,
read 80:4, 93:19	recent 37:5, 69:11,	refinancings 107:3	40:20, 41:15,
readable 70:10	70:14, 78:18,	regard 43:11, 73:14,	43:18, 46:2,
reading 98:18, 130:9	92:7, 123:7	77:20, 86:5,	46:5, 47:5
real 15:22, 16:6,	recently 109:18, 119:22	122:11, 123:14,	relate 18:7, 107:19
113:14, 120:3	recently-retired 77:18	123:18, 125:13	related 17:22, 22:10,
really 30:17, 32:3,	recognizing 109:21	regarding 20:19, 43:16,	34:1, 55:20,
58:12, 75:2,	recommend 44:19	105:15, 108:13,	57:14, 102:22,
111:7, 113:16	reconciliation 97:2	117:15, 123:16	130:10
realpage 76:15, 76:16,	record 6:5, 34:18,	regional 76:2	relates 22:5, 98:10,
76:20, 79:20	35:7, 35:15,	register 54:6	122:22
realty 14:9	36:4, 58:16,	registration 130:22	relation 96:6, 115:20
reason 8:15, 9:5,	71:7, 94:20,	registries 74:21	released 109:18
9:14, 14:5,	94:22, 114:17,	registry 75:8, 112:13,	relevant 43:8, 43:14,
91:19, 93:8,	129:17, 130:6	113:1	48:5, 48:21,
97:10, 100:16	recorder 20:8, 98:7	regret 8:20	70:7, 72:3,
reasonable 52:14, 52:16,	records 108:2, 108:3,	regs 63:17, 93:16	72:9, 93:22
115:2, 124:20,	108:4, 113:3,	regular 57:16, 107:2,	relied 95:15
125:5	113:16, 113:19	120:5	rely 33:12, 119:12
reasons 23:1, 52:9,	red 80:7	regularity 66:18	relying 53:6
109:16, 115:8	reduced 130:8	regulate 99:7, 102:13	remember 7:8, 15:16,
recall 37:9, 38:9,	reed 2:3, 4:4,	regulated 101:11	34:8, 38:1,
38:16, 63:22,	32:12, 32:17,	regulates 98:16	38:11, 65:11,
65:4, 116:17,	32:19	regulations 19:18, 20:6,	67:22, 77:9,
124:22	refer 8:21, 10:13		82:8, 98:6,
receive 23:16, 24:9,			124:7
32:4, 38:14,			remind 87:6
			remote 8:2

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP
Conducted on December 20, 2016

61

remotely 6:11 removing 36:19, 37:15, 37:17 render 33:16 renewal 93:3 renewed 93:6 rent 13:19, 13:21, 38:20, 52:14, 52:16, 58:6, 88:8, 106:13, 125:10, 125:12, 129:9, 129:11 rental 15:12, 21:16, 42:8, 71:16, 72:5, 72:18 rephrase 26:17, 117:3 replace 11:18 report 5:12, 8:19, 8:22, 27:13, 33:14, 34:6, 34:20, 43:8, 58:20, 65:18, 78:21, 83:6, 84:13, 95:4, 95:13, 95:16, 95:17, 108:16, 111:13, 118:8, 119:16, 121:5 reported 1:22 reporter 2:21, 6:6, 6:14, 8:5, 20:18, 43:15, 105:14, 117:14, 123:15 reporter-notary 130:1	reporting 19:18, 106:5 representative 7:18, 10:4, 16:12, 16:13, 16:17, 97:12 representatives 123:3 republic 130:1 request 33:1 requested 20:18, 43:15, 105:14, 117:14, 123:15 requested; 130:9 require 76:20, 77:11, 97:21, 115:2 required 49:7, 51:1, 59:19, 60:2, 67:17, 73:20, 77:7, 79:14, 92:7, 112:12, 112:21 requirement 16:15, 50:2, 98:3, 98:5, 98:11, 118:21, 128:18 requirements 17:1, 17:8, 24:19, 46:13, 49:10, 67:14, 89:17, 89:22, 90:3, 90:7, 90:10, 99:16 requires 50:9, 84:2, 124:20 requiring 92:22, 128:18 research 14:3, 19:9, 99:2	researched 106:22 reserved 71:15, 72:4 reside 64:14, 92:14 residence 36:19, 50:6, 55:7 residences 74:15, 74:17, 78:3, 78:19, 79:5 residences; 78:16 residency 17:1, 17:8, 25:13, 26:5 resident 31:13, 50:5, 89:10, 89:18, 89:21, 90:9, 92:8 residential 9:6, 13:18, 13:21, 14:1, 15:12, 19:12, 21:15, 21:16, 39:8, 39:19, 41:12, 46:12, 57:7, 82:1, 83:12, 123:9, 128:18 residents 38:19, 55:4, 115:21 resort 56:20 respect 103:22 respectfully 104:3 respond 107:9, 107:16 response 45:3, 80:22, 124:17 responsibilities 10:1, 12:18	responsibility 8:13, 12:14, 97:2 responsible 13:1, 17:9, 81:13, 88:7, 88:17, 88:19 rest 61:18, 62:22, 63:11 restate 27:4, 35:22, 118:1 restrictions 43:3 restrictive 28:20, 100:20, 115:16 resumé 8:18 retail 21:19 retired 7:19, 9:14, 11:16, 11:17, 16:13, 120:6 retirement 12:5, 12:13, 13:12 reveal 78:1, 79:5 revealed 36:18, 37:6, 37:13 review 33:20, 35:10, 67:13 reviewed 107:6 reviewed; 35:5 reviewer 12:3, 12:6 reviews 11:10 reyes 1:5 rifling 80:3
---	---	---	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

62

right 6:4, 7:1, 7:10, 7:13, 7:20, 8:18, 9:7, 9:10, 26:17, 27:20, 30:9, 31:17, 34:14, 34:16, 35:3, 35:5, 41:11, 41:20, 42:3, 42:7, 43:18, 52:8, 58:14, 71:6, 75:6, 78:12, 78:16, 81:10, 81:17, 96:8, 104:11, 114:7, 120:21, 125:21, 126:5, 128:15, 129:12 rights 88:11 righty 7:17 rigor 106:21 rise 106:20 risk 29:4, 43:18, 46:2, 47:5, 72:12, 86:5, 103:20, 105:7 road 7:22 rock 128:5, 128:6 rogues 104:12 rosy 1:5 roughly 18:4, 19:5, 128:13 roundabout 29:20 ruined 82:13 rule 93:13, 95:18	rulemaking 18:21 rules 7:22, 18:21, 19:17, 31:11, 40:13, 40:19, 43:10, 45:2, 47:18, 49:8, 67:4, 85:5, 99:20, 100:20, 108:13 run 28:12, 28:18, 62:16, 72:20, 76:21, 77:7, 77:20, 79:14, 80:14, 103:8 running 16:5, 28:13, 28:15, 80:16 résumé 119:19, 119:20 <hr/> S <hr/> s 15:11, 22:11, 22:12, 22:16, 65:13, 123:4 sabbatical 15:4 safe 116:1 safety 103:20, 105:7 said 16:22, 17:22, 20:12, 23:9, 24:15, 26:3, 34:8, 47:13, 47:20, 47:21, 50:14, 52:19, 71:1, 78:14, 90:15, 96:16, 100:19, 101:12, 109:14, 112:5, 115:13, 121:4, 130:6 same 10:12, 19:14,	25:14, 26:20, 30:12, 36:15, 41:15, 44:4, 44:14, 44:21, 48:19, 49:1, 49:6, 49:8, 61:1, 65:8, 69:9, 69:22, 72:21, 72:22, 73:11, 73:15, 75:4, 84:10, 86:1, 86:7, 86:12, 86:14, 87:14, 90:10, 91:1, 93:17, 96:15, 97:1, 97:19, 98:21, 103:11, 110:15, 113:2, 122:4 sandoval- moshenberg 3:10 saw 8:18, 9:5, 96:16, 119:19, 119:20 say 9:14, 10:16, 11:22, 14:2, 14:4, 14:5, 24:6, 28:9, 28:11, 29:3, 41:9, 45:5, 51:17, 51:22, 52:10, 66:21, 68:6, 85:16, 85:19, 87:15, 97:10, 101:9, 109:14, 116:6, 120:12, 126:14, 127:3, 127:17 say-so 117:11 saying 47:14, 62:15, 86:22, 114:2 school 64:15 scientific 106:21	scientifically 68:6 se 17:8 seal 130:14 season 127:10 second 26:1, 27:14, 47:20, 51:5, 103:13 section 20:5, 117:18 sector 19:2 secure 69:12, 116:22 security 37:22, 50:22, 61:7, 61:12, 61:18, 62:3, 62:13, 62:16, 62:19, 63:6, 63:14, 64:3, 64:22, 70:10, 70:13, 70:15, 70:17, 70:18, 70:19, 70:21, 73:20, 75:2, 75:7, 76:20, 77:6, 77:12, 78:1, 78:5, 78:13, 79:4, 79:14, 112:21, 113:18 see 34:11, 34:12, 34:16, 36:6, 36:17, 54:18, 55:15, 55:17, 55:20, 57:2, 64:16, 69:10, 70:13, 70:16, 79:1, 79:12, 80:6, 80:10, 84:18, 100:10, 107:14, 109:8,
---	---	--	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

63

110:1, 122:17 seem 30:16 seemed 22:9 seems 81:10 seen 34:1, 43:2, 43:20, 49:13, 50:10, 50:14, 50:15, 50:19, 51:3, 53:16, 53:17, 53:18, 65:6, 69:15, 70:14, 71:1, 108:22, 109:2, 113:3 seize 107:10, 107:14 selection 49:13, 50:19, 90:19, 93:5, 122:5, 122:15, 122:22, 126:18 senior 41:5, 71:21, 77:17, 77:18 sense 21:6, 101:13, 119:10 separate 103:9 separately 42:18, 81:2, 81:11, 120:14, 120:20 series 13:15, 22:10 served 113:6 services 82:17 set 23:6, 24:18, 28:16, 28:19, 59:15, 79:8, 85:5, 91:5,	93:4, 94:1, 94:3, 108:13, 115:16, 130:13 setting 110:13 seven 14:19, 74:14, 78:2, 78:15 several 48:1, 62:10, 75:17, 81:7, 81:18, 81:20, 81:21, 82:2, 84:21, 88:13, 89:7 severals 81:6 sex 74:20, 75:8, 112:13, 113:1, 113:12 shade 14:16, 15:2 share 101:13, 101:19, 122:13, 122:18, 122:21 shared 32:1, 84:17, 102:11 sharing 122:7 sheet 113:10 shore 14:11 short 21:15, 69:7, 82:13, 86:2, 103:10, 116:1, 125:20 shorthand 130:1 should 25:13, 89:15 shouldn't 48:11 show 74:16	siberia 119:6 side 61:8, 68:9, 68:12, 70:10, 73:7, 85:3, 85:4, 85:11, 86:8, 87:7, 87:8, 87:15, 91:4, 91:14, 91:17, 110:1 sides 90:20 sign 41:6, 41:9, 46:4 signature-ils 130:18 signed 120:18 signing 130:9 similar 19:15, 19:20, 22:21, 23:22, 40:7, 98:6 simon 3:10 simple 59:4, 65:22 simply 32:13, 35:14, 63:18 simultaneous 105:10, 123:11 since 7:20, 13:11, 22:18, 37:3, 53:8, 55:2, 62:6, 77:1, 80:15, 89:6, 90:19, 93:15, 113:21, 123:2, 127:3 single 22:22, 110:20, 110:21 single-family 13:20	single-use 15:12 sister 71:5 sisters 13:14 sit 10:4, 31:13, 83:20, 120:2 site 69:2, 80:1, 80:7, 101:3, 101:4, 101:10, 101:13, 101:14, 101:16, 102:2 sitting 19:8, 23:13, 42:17, 43:13, 98:18, 99:22, 102:9, 126:16 situated 44:12, 44:14 situation 25:4, 37:6, 42:17, 45:12, 45:16, 50:12, 64:1 situations 64:16, 64:18, 68:13 six 7:6, 15:6 skimming 48:10 skips 110:17, 110:19, 111:1, 111:5 smattering 21:17, 21:18 smith 2:3, 4:4, 32:12, 32:17, 32:19 social 37:21, 50:22, 61:6, 61:12, 61:17, 62:2, 62:13, 62:16,
---	--	---	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

64

62:19, 63:6, 63:14, 64:3, 64:22, 70:19, 73:20, 75:1, 75:7, 76:20, 77:6, 77:12, 78:1, 78:5, 78:13, 79:4, 79:14, 112:21, 113:18 software 76:5, 76:16, 77:10, 79:8 solid 115:22 some 9:15, 9:16, 10:1, 12:13, 18:17, 19:3, 19:21, 21:2, 21:22, 23:20, 24:7, 24:19, 37:13, 39:8, 39:22, 43:17, 45:12, 50:5, 53:19, 55:4, 56:14, 64:16, 66:18, 69:15, 69:20, 71:1, 71:18, 75:9, 78:22, 82:15, 82:22, 84:11, 86:18, 87:3, 96:16, 104:11, 106:20, 107:11, 107:16, 108:3, 114:14, 121:6, 122:1, 127:16, 127:18, 128:17 somebody 25:18, 25:19, 30:1, 38:17, 52:17, 54:5, 55:14, 59:15, 61:3, 66:1, 68:10, 68:11, 68:14, 68:17, 80:2, 86:22,	104:17, 119:2, 119:9, 119:10 somebody's 117:11 someone 17:6, 31:5, 60:20, 61:13, 62:2, 67:1, 67:9, 71:19, 109:3, 113:15, 117:20, 119:11, 125:11 someone's 71:10 something 10:22, 11:13, 29:3, 47:20, 48:4, 48:11, 66:19, 91:21, 101:14, 113:15, 116:22, 123:12, 123:17 sometime 8:22 somewhere 14:22, 74:14, 125:11 sorry 16:21, 21:11, 51:11, 53:1, 61:14, 71:3, 83:16, 88:20, 98:8 sort 28:5, 46:22, 56:5, 56:11, 75:9, 106:18 sorts 16:5 sources 72:1, 73:16 south 15:15 southeast 14:20 southeastern 120:1 space 124:19, 126:5	spaces 21:19 speak 7:22, 80:17, 98:9, 101:8 speaking 38:4, 109:1 special 11:19, 24:18, 64:18 specialized 105:5, 105:22, 106:11, 110:5, 111:10, 112:11, 112:20 specific 23:13, 40:10, 70:1, 121:19, 122:1 specifically 24:17, 42:12, 82:5, 99:3, 121:15 specificity 17:19, 21:2 specifics 69:20 specify 22:5 speculate 100:1 speculation 27:1, 29:14, 58:11, 59:21, 63:16 spend 20:1, 21:3, 109:21, 120:7 spent 11:17, 65:11, 123:5 split 23:4 sponsor 97:8 spouse 89:20 ssi 87:3	staff 38:16, 80:7, 100:18, 101:1, 122:12 stages 22:8 stand-alone 80:16 standard 28:20, 28:21, 91:6, 127:19 standards 28:17, 28:19, 92:16, 92:18, 93:4, 93:5, 93:7, 94:3, 103:11, 115:16, 116:16 start 8:7, 74:6, 100:5, 100:9, 100:14, 106:16, 117:17 started 9:8, 14:8, 70:4, 116:18 starters 100:9 starting 69:4 starts 63:10 state 19:16, 23:16, 25:2, 26:12, 27:15, 27:22, 35:15, 42:1, 45:13, 46:8, 57:18, 57:22, 75:11, 100:12, 112:16, 112:22, 118:9 stated 86:13 statement 29:6, 65:17, 118:14, 128:21 states 1:1, 14:19,
---	--	--	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

65

27:17, 28:7, 62:14, 63:9, 63:15, 64:2, 65:2, 68:3, 72:3, 72:17, 84:9, 103:2, 118:18, 123:1, 123:22, 124:22, 128:3, 128:19 statistics 68:7, 105:1 status 25:18, 25:20, 26:6, 58:20, 62:14, 62:21, 65:19, 72:2, 72:8, 90:8, 97:22, 103:1, 108:5, 115:3, 118:9, 118:16, 118:22, 123:1, 123:21, 128:3, 128:6, 128:19, 128:20 statute 73:2, 107:13, 119:12 stay 11:15, 24:15 stay-at-home 85:20 steady 86:4 stealing 109:7 stenographically 130:7 step 71:6, 73:14 steps 73:12, 73:13, 73:14, 108:8 stick 97:7 still 15:16, 15:22, 16:13, 28:5, 28:11, 28:12,	62:3, 63:14, 65:1, 66:18, 70:18, 70:20, 72:15, 75:21, 77:17, 82:9, 87:9 stipulate 6:10 stock 18:13 stood 59:13 stop 104:1 street 3:5 strict 110:16 string 41:4 strings 19:17, 19:21, 21:4 strong 110:10 structure 43:4, 99:8 structured 47:13, 47:21, 100:15, 102:17 stubs 56:17, 56:20, 116:19 student 87:20 studied 105:1 studies 65:7 studiously 82:14, 83:4 study 61:21 stuff 10:5, 11:15, 39:18, 39:20, 39:21, 40:1, 44:18, 63:12,	66:17, 70:11, 70:12, 79:10, 116:6, 129:9 subdivision 45:13 subjected 103:10 subjects 82:22, 83:2, 83:3 submit 54:7, 88:15, 107:3 subordinates 41:9 subset 107:20 subsidies 18:7, 21:5, 26:12, 28:4 subsidized 28:19 subsidy 19:7, 23:16, 25:3, 27:21, 30:20 substantial 12:20, 14:4 substantive 123:14, 123:18, 123:20 sufficient 71:15, 86:3, 112:9 suggest 109:2, 126:19 suggesting 66:5 suit 49:2 suite 2:5, 3:13, 4:6, 75:18, 76:8 sullivan 3:4 super 76:1 supervisors 102:3	support 19:3, 115:20, 115:21 suppose 62:6 sure 17:21, 26:14, 29:11, 29:18, 34:10, 35:7, 36:3, 51:6, 52:13, 55:6, 62:6, 63:3, 65:10, 66:4, 72:8, 81:9, 82:20, 87:12, 88:12, 89:5, 90:5, 90:22, 93:14, 94:15, 96:22, 103:15, 106:16, 110:2, 114:8, 114:13, 115:22, 119:9, 119:12, 120:16, 125:21, 129:1 surprised 74:22 sustained 71:10 swear 6:6 sweep 116:6 swept 99:15, 99:17, 99:19 sworn 6:11, 6:18 system 55:6, 57:1, 59:12, 59:14, 59:15, 60:3, 61:10, 61:16, 62:8, 67:11, 80:9, 119:3 systems 59:18, 63:1, 74:12, 78:6, 80:15
---	--	---	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

66

T			
table	23:15, 24:3,	terminated	73:14, 82:16,
122:14	24:19, 24:21,	91:20	96:13, 97:16,
take	39:8, 53:11,	terms	99:21, 102:1,
8:5, 13:4,	66:3, 95:12,	18:19, 29:18,	102:5, 109:20,
22:15, 27:10,	108:17, 113:22	48:5, 55:8,	109:22, 113:4,
28:7, 30:19,	ten	91:1, 102:4,	121:6, 121:8,
31:8, 37:5,	36:21, 66:22,	115:19, 116:16,	121:10, 121:14
49:19, 52:2,	120:2	121:17, 121:18,	think
58:14, 85:10,	tenancy	121:19, 122:1	7:6, 22:4,
87:9, 87:22,	22:2, 24:9,	terribly	24:15, 25:9,
89:13, 94:21,	40:8, 88:10,	16:16, 16:22	27:5, 27:10,
102:6, 114:11,	103:8, 123:22	testified	35:1, 39:16,
114:16, 116:19,	tenant	6:20, 96:4,	42:9, 42:14,
120:9, 122:18,	12:10, 12:15,	124:17, 126:8	43:7, 49:17,
126:2	26:19, 28:6,	testify	51:12, 52:12,
taken	38:20, 42:4,	6:18	59:1, 62:17,
63:7, 86:16,	42:5, 42:7,	testimony	79:19, 87:9,
130:4, 130:7	45:17, 49:11,	6:7, 8:10,	93:21, 94:2,
takes	49:12, 49:13,	8:16, 81:10,	94:13, 97:18,
100:12, 102:12	50:9, 50:18,	97:20, 130:6	103:14, 104:3,
taking	50:19, 50:21,	texas	110:10, 112:5,
100:9, 108:7,	55:13, 56:1,	14:20	114:8, 115:4,
127:13	90:19, 93:5,	th	115:6, 116:2,
talk	111:12, 116:12,	3:6	116:7, 116:8,
8:2, 11:19,	122:5, 122:15,	thank	120:17, 125:5,
24:4, 82:16,	122:22, 124:9,	51:10	126:9, 126:10,
82:18, 121:7,	124:21, 126:18	thanks	129:6, 129:12
121:15, 121:16,	tenant's	114:7, 129:13	thinks
121:17, 121:19	29:13, 78:10	theory	127:1
talked	tenants	9:13, 9:15	third
112:15	18:10, 26:6,	thereabouts	119:8
talking	27:16, 38:4,	115:14	third-party
42:12, 42:14,	38:10, 38:15,	thereafter	12:21, 56:9,
47:2, 58:18,	76:14, 84:3,	130:7	56:11, 56:12,
69:8, 71:10,	97:22, 103:10,	thieves	116:14, 116:16
90:22, 92:20,	103:19, 105:7,	104:12	thoroughly
92:21, 93:11,	106:12, 110:6	thing	80:9
96:22, 97:18,	tend	27:6, 44:21,	thought
127:14	47:12	49:4, 49:6,	39:2
target	tenure	55:15, 73:8,	thoughtful
32:2	57:4, 74:11	97:19, 104:11,	116:8
taxation	term	127:5	threat
16:4	21:18, 37:10,	things	40:20, 41:2
taxes	41:8, 48:9,	16:5, 17:9,	three
54:3, 54:7	55:16, 57:14,	41:4, 47:21,	20:9, 73:5,
tell	126:3, 126:22	52:22, 56:7,	78:19, 82:13,
8:13, 23:14,	terminate	58:3, 67:10,	94:19, 96:2,
	90:6, 91:22	71:20, 72:22,	116:18

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

67

three-foot 20:5 threshold 67:15 through 31:13, 53:9, 59:7, 60:3, 60:4, 60:22, 67:12, 73:15, 80:4, 103:8, 127:10 throughout 73:9 throw 58:5 tie 96:2 tied 106:8 tiers 47:11 time 7:14, 8:4, 8:5, 9:17, 10:10, 11:20, 12:4, 14:16, 20:18, 25:14, 43:15, 47:10, 54:15, 61:2, 65:11, 73:11, 77:1, 79:17, 84:16, 93:2, 104:11, 105:14, 106:4, 113:6, 115:12, 117:14, 120:6, 123:5, 123:15, 126:6, 127:12, 129:13 times 7:4, 7:9, 36:14, 36:21, 66:15, 96:20, 129:7 title 10:3 titles 97:17 today 6:7, 8:10,	8:16, 16:1, 68:16 together 96:2, 120:12, 120:13, 120:19 told 32:12 took 71:9, 76:3 top 42:17, 67:22 topic 15:18, 20:1 topics 123:3 touched 129:6 tougher 69:14 towards 60:6, 67:7 tower 15:13 trade 15:22, 16:6 training 11:18, 64:10, 64:17, 64:21, 84:11, 119:21 transcript 5:10, 6:2, 130:5 transfer 71:20, 86:18, 87:1, 87:3 treasury 16:2 treated 31:6 treatment 91:16 tried 129:7 trigger 74:4 trouble 60:14 true 23:11, 26:11,	113:15, 114:22, 116:10, 117:2, 117:3, 117:20, 118:14, 121:9, 130:5 trusts 13:16 truth 6:19, 8:14, 66:3 trw 79:18 try 8:1, 8:7, 8:8, 27:5, 63:18, 105:17, 117:17 trying 26:15, 27:7, 29:8, 68:9, 72:6, 91:7, 110:2, 112:17 tuesday 1:17 tune 125:11 turnaround 59:13 turned 9:17, 68:19 two 10:13, 27:10, 28:13, 30:17, 35:1, 60:16, 74:4, 74:5, 82:8, 128:9 two-minute 114:12 type 26:21, 98:6 types 12:7, 18:3, 28:15, 54:15, 100:2 typewriting 130:8 typically 19:9, 56:12, 56:22, 68:2,	74:10 tysons 2:4, 4:5 <hr/> U <hr/> ultimately 37:15 umbrella 48:2, 48:19 unable 65:19, 89:17, 111:22, 118:10 unassisted 115:15 unaware 25:4 uncomfortable 122:7 under 48:19, 59:5, 81:19, 86:12, 90:18, 92:5, 95:18, 130:8 underlying 99:9 underpinned 18:14, 18:16 understand 8:9, 8:20, 26:14, 27:4, 27:11, 27:13, 29:8, 30:18, 49:22, 59:1, 66:4, 72:6, 76:6, 79:22, 81:9, 82:21, 88:12, 90:5, 91:8, 94:15, 94:18, 105:4 understanding 42:20, 50:16 understate 39:6 understated 39:2, 67:3 understood 20:16, 63:3 underwrite 25:18, 25:21,
---	--	--	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

68

28:12, 72:21, 73:10, 73:13, 81:3, 81:11, 81:19, 83:6, 83:9, 121:10, 121:18 underwriting 27:9, 27:12, 29:2, 29:12, 30:11, 30:21, 31:1, 31:4, 31:9, 31:16, 52:13, 58:19, 58:21, 65:21, 66:20, 71:11, 72:15, 78:6, 78:11, 89:16, 90:7, 91:18, 110:16, 111:14, 118:12, 125:22, 128:7 underwritten 93:16 undocumented 16:8, 22:1, 24:8, 36:9, 40:8, 66:6, 91:21, 103:19, 105:6, 106:2, 106:12, 107:19, 108:18, 109:12, 110:6, 111:6, 112:2, 124:13 unemployed 84:22, 87:17, 87:19 unfortunately 97:16 united 1:1, 27:17, 28:7, 62:14, 63:8, 63:15, 64:2, 65:2, 68:3, 72:3, 72:17, 84:8, 103:2, 118:18, 123:1, 123:21, 124:22, 128:3,	128:19 units 9:11, 13:3, 14:17, 15:1, 15:2, 15:16, 48:17, 48:18 unless 116:4 unreasonable 127:5 until 9:17, 13:11, 22:6, 22:7 untoward 86:5 unusual 101:12, 116:7, 126:9, 126:11, 126:15 updates 84:17 upkeep 12:1 uploaded 76:10 upper 47:10 upwards 98:12 urquhart 3:4 use 21:17, 37:10, 41:8, 55:16, 57:14, 62:6, 63:1, 74:1, 74:3, 74:10, 74:12, 75:21, 76:9, 76:12, 76:15, 76:16, 81:18, 82:2, 90:19, 91:4 user 77:9 uses 12:9, 48:9, 81:21 using 19:16, 47:4,	59:14, 59:16, 73:11, 74:2, 80:15 <hr/> v <hr/> vacation 129:16 variable 50:13 variance 102:2 varied 14:21 varies 112:15, 114:5 various 16:3, 99:20, 99:21, 102:5, 119:21 vary 57:5, 73:16 vast 104:9 vein 91:11 vendors 79:20 verbal 45:3, 80:22 verifiable 119:8 verification 17:1, 25:22, 27:12, 63:1, 66:16, 69:18, 78:10, 103:1, 116:14 verifications 56:18, 61:19, 74:3, 74:13 verified 56:8, 56:9, 59:7, 65:20, 118:11 verify 17:12, 26:5, 26:19, 27:16, 28:6, 56:6,	57:13, 61:3, 61:22, 71:10, 71:14, 72:1, 72:22, 73:13, 73:21, 116:12, 128:2, 128:19, 128:20 verifying 55:5 versus 91:4, 91:16 vet 113:19 vets 117:3, 117:5, 117:22 vetting 113:16, 115:21 vice 12:21, 14:7 videoconference 1:15 view 68:7, 102:6, 102:12, 112:6 views 27:20, 33:16 violating 119:11 violation 92:16 violent 108:19 virginia 1:2, 1:16, 2:6, 2:23, 3:14, 4:7, 39:9, 40:4, 82:2, 82:7, 108:13, 130:21 virtually 15:3, 24:21 vis-à-vis 114:1 visa 54:8, 54:11, 54:13 visas 54:12, 54:14,
--	---	--	--

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

69

54:15, 54:21, 57:12, 65:11 visit 37:10 visited 22:11 votes 16:20	44:12, 44:13, 46:17, 46:22, 47:4, 47:11, 49:11, 50:1, 51:2, 52:11, 98:16, 99:7, 100:3 waples' 42:11, 50:8 washington 3:7, 15:6, 15:18 way 11:5, 16:11, 18:12, 19:14, 29:20, 42:10, 42:20, 44:21, 47:1, 47:17, 47:18, 47:22, 48:16, 49:6, 55:22, 57:20, 58:13, 69:6, 72:21, 73:15, 80:18, 82:5, 83:11, 93:17, 105:5, 107:19, 109:1, 110:11, 110:22, 111:9, 118:5, 124:12, 127:5, 127:10, 127:13 ways 19:15, 46:12, 72:1, 99:19, 109:5 we'll 8:4, 9:1, 21:2, 25:22, 52:2, 66:19, 94:20, 117:17, 122:8, 122:9 we're 6:4, 11:8, 38:4, 51:12, 53:9, 53:13, 53:14, 55:2, 55:4, 56:21, 57:1, 57:5,	66:19, 78:19, 87:6, 88:2, 88:13, 90:20, 90:22, 92:20, 92:21, 96:22, 97:18, 103:14, 114:15, 124:5, 126:3, 128:5, 129:8 we've 8:19, 47:1, 52:18, 52:19, 59:16, 91:5, 93:16, 96:20, 97:10, 101:22, 112:15, 115:15, 127:10 weapons 108:12, 108:14, 109:7 weeds 88:2 week 9:16 weeks 9:15, 9:16 well-managed 39:10, 39:12, 39:18, 39:20, 39:22, 40:1, 40:3 went 14:12, 15:1, 15:7, 82:12, 100:19 weren't 16:16, 17:4, 127:19 west 14:12 whatever 126:7 whenever 41:8 whereof 130:13 whereupon 6:16	whether 21:6, 21:8, 23:15, 24:6, 24:9, 24:18, 25:1, 25:7, 26:11, 26:20, 28:19, 31:10, 35:9, 35:15, 35:16, 36:5, 38:11, 44:3, 44:12, 44:17, 46:17, 46:18, 47:16, 50:4, 60:7, 60:8, 62:18, 69:7, 71:14, 72:3, 72:9, 75:5, 77:6, 77:14, 80:13, 84:7, 89:8, 98:15, 98:21, 99:15, 101:5, 103:19, 104:13, 104:18, 105:6, 106:1, 106:12, 108:18, 110:6, 110:13, 111:5, 111:11, 112:21 whole 6:19, 8:14, 12:8, 30:19, 41:4, 56:7, 67:8, 67:11, 85:4, 116:2, 122:8 whopping 15:15 wide 102:1 widely 50:13, 112:16 wife 89:17, 90:8, 90:18, 91:20, 92:2, 92:5, 92:22, 104:2 within 84:8
--	--	---	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

70

<p>without 14:3, 19:8, 23:13, 24:17, 41:17, 53:6, 63:13, 98:18, 99:22, 102:16, 110:7, 114:1 witness 35:14, 130:13 witness: 20:8, 21:11, 32:18, 53:2, 71:2, 71:4, 83:18, 88:21, 94:6, 95:19, 98:7, 112:5, 117:16, 129:14 wondered 18:1 wonk 65:10 words 31:7, 57:19, 73:12 work 9:1, 9:15, 9:16, 11:9, 14:12, 15:7, 15:8, 15:17, 15:19, 16:7, 17:22, 18:6, 23:21, 42:11, 54:14, 55:21, 57:13, 59:8, 61:4, 61:10, 62:8, 62:14, 62:21, 63:8, 63:14, 64:2, 65:1, 65:19, 69:4, 76:1, 86:11, 97:2, 99:22, 106:6, 106:7, 116:4, 118:6, 118:10, 118:16, 118:22, 119:7, 120:11, 125:8, 126:1, 128:6</p>	<p>worked 14:15, 16:1, 16:15, 18:18, 115:13 working 9:17, 10:10, 25:21, 55:10, 65:12, 66:1, 71:22, 86:9, 109:3, 119:11, 120:9 works 56:13, 62:9, 79:12, 80:11 world 15:13, 32:15 worth 74:14 wouldn't 23:14, 42:8, 79:18, 89:20, 93:6, 93:13, 98:19, 123:14, 123:18 write 58:20, 81:5, 82:18, 83:1, 83:3, 84:1, 84:20, 85:6, 85:21, 88:14, 96:13 writes 91:17 writing 20:12, 20:20, 20:21, 45:14 written 17:5, 20:22, 57:2, 86:12, 87:17 wrong 96:6, 126:21 <hr/> x <hr/> x 1:4, 1:11 <hr/> y <hr/> yardi 75:14, 75:16,</p>	<p>75:18, 75:21, 76:4, 76:8, 76:9, 76:13, 77:14 yardi's 76:17 yeah 9:8, 26:7, 31:19, 34:22, 36:2, 37:4, 51:18, 64:15, 66:9, 84:16, 87:8, 87:11, 101:3, 116:13, 119:18, 128:1 year 7:6, 7:11, 37:2, 67:8, 67:16, 125:12, 127:16 year's 120:3 year-old 87:16 years 7:7, 7:12, 9:5, 9:9, 10:9, 11:18, 15:6, 15:8, 20:12, 21:7, 21:22, 41:5, 57:16, 59:6, 59:17, 62:10, 66:22, 67:7, 68:1, 69:11, 70:5, 74:14, 75:17, 76:22, 78:2, 78:15, 80:2, 97:13, 109:22, 115:13, 119:22, 120:2, 123:7, 124:5, 124:8, 128:12 yellow 80:7 yourself 128:9, 129:10 yup 23:1, 34:9,</p>	<p>35:6, 99:2 <hr/> \$ <hr/> \$10,000 67:16 <hr/> . <hr/> .3450 3:15 .4200 2:7 .4209 4:8 .8159 3:8 <hr/> 1 <hr/> 100 24:20, 45:17 11 3:6 114 5:4 12 1:18, 128:13 121 5:3 130 1:21 131024 1:20 14 9:17, 10:9 15 11:17, 14:22, 67:8, 76:3 15,000 125:12 16 1:12, 1:17 165 13:3 175 13:3 18 81:12, 85:7, 123:5, 128:11 19 87:16, 93:15</p>
--	---	---	---

Transcript of George C. Caruso, CPM, RAM, SHCM, HCCP

Conducted on December 20, 2016

71

1972 9:8 1990 16:15, 22:6, 22:7, 22:18, 23:12, 26:4, 96:21 1996 97:3, 98:16 1:cv-tse-tcb 1:12 <hr/> 2 <hr/> 20 1:17, 67:8, 123:5 20,000 15:1 20001 3:7 2002 13:9, 13:11, 15:8, 37:3 2014 12:14 2016 1:17 2017 130:15 2018 130:17 202.538 3:8 22041 3:14 22102 2:6, 4:7 23 15:16 24 20:6 25 115:13 26 95:18 <hr/> 3 <hr/> 30 109:22	30,000 13:3 300 14:17 31 130:17 35 129:17 37 1:18 3: 129:17 <hr/> 4 <hr/> 40 9:5, 15:8, 19:11, 23:10 40,000 125:12 4350.3 98:4, 98:12 44 9:9 45 80:1 4th 130:14 <hr/> 5 <hr/> 5,000 9:11 50 70:4 500 2:5, 4:6 520 3:13 55,000 14:16 563 1:12 <hr/> 6 <hr/> 60 18:4, 19:10, 23:9 6066 3:12	65 9:18 6th 3:5 <hr/> 7 <hr/> 703.641 2:7, 4:8 703.778 3:15 7057881 130:22 777 3:5 7900 2:4, 4:5 <hr/> 8 <hr/> 8,000 15:2 80 15:11 800 85:5 87 130:18 <hr/> 9 <hr/> 90 22:11, 22:12, 22:16, 65:13, 123:4 94 54:22, 93:15	
--	--	--	--